

EXHIBIT 1

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

THE UNITED STATES OF AMERICA,)
)
Plaintiff,) District Court
v.) Case No.
RANDY SPORN,) 21-10016
)
Defendant.)

TRANSCRIPT OF PROCEEDINGS

VOLUME I

On the 14th day of February, 2022, came on to be heard proceedings in the above-entitled and numbered cause before the HONORABLE ERIC F. MELGREN, Judge of the United States District Court for the District of Kansas, sitting in Wichita, commencing at 1:00 P.M. Proceedings recorded by machine shorthand. Transcript produced by computer-aided transcription.

APPEARANCES:

The plaintiff appeared by and through:

Mr. Jason W. Hart
United States Attorney's Office
301 North Main Street
Suite 1200
Wichita, Kansas 67202-4812

The defendant appeared in person and by and through:

Mr. Mitch E. Biebighauser
Federal Public Defender's Office
850 Epic Center
301 North Main Street
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Johanna L. Wilkinson, CSR, CRR, RMR

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13:00:16 1 CLERK WOOD: All rise.

13:00:17 2 The United States District Court for the District

13:00:20 3 of Kansas is now in session, the Honorable Eric F.

13:00:22 4 Melgren presiding.

13:00:25 5 THE COURT: Good afternoon. You may be seated.

13:00:29 6 The court calls the case of the United States v.

13:00:34 7 Randy Sporn, Case No. 21-10016. United States appears by

13:00:42 8 Assistant United States Attorney Jason Hart, and the

13:00:45 9 defendant appears in person and by his counsel Assistant

13:00:49 10 Federal Public Defender Mitch Biebighauser. This matter

13:00:51 11 comes before the court on a motion to suppress.

13:00:53 12 I understand, Mr. Hart, that we have a witness or

13:00:59 13 two that we're going to start with; is that correct?

13:01:02 14 MR. HART: That is correct, Your Honor. We have

13:01:05 15 Evan Anderson from Twitter online and Detective Steph --

13:01:09 16 now Sergeant Stephanie Neal, who is present in the

13:01:12 17 hallway outside.

13:01:14 18 THE COURT: All right. Is there any -- pardon me,

13:01:18 19 Is there anything else we need to take up before we start

13:01:20 20 with the witnesses? Mr. Biebighauser?

13:01:21 21 MR. BIEBIGHAUSER: Your Honor, I invoked the rule

13:01:24 22 excluding witnesses. It sounds like that's been done but

13:01:26 23 I'd like to formally invoke it.

13:01:28 24 THE COURT: Very well. It does sound like that's

13:01:30 25 already been complied with, so if there's nothing else, I

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13:01:34 1 guess we'll proceed. So I hope that the witness is in a
13:01:41 2 warmer room than we are. I think they were hanging meat
13:01:45 3 this morning, but we'll do the best we can.

13:01:46 4 So, Mr. Hart, you may proceed.

13:01:48 5 MR. HART: Your Honor, would it be okay with the
13:01:50 6 court if I asked my questions from this table instead of
13:01:54 7 the podium?

13:01:55 8 THE COURT: That's fine with me.

13:01:56 9 MR. HART: Okay.

13:01:58 10 THE COURT: And we'll need to start by swearing in
13:02:00 11 the witness.

13:02:06 12 Can you do that, Mr. Wood?

13:02:09 13 Can we identify the witness? Who is our witness?

13:02:12 14 MR. HART: Your Honor, it is Mr. Evan Anderson
13:02:18 15 with Twitter, and he's appearing by video teleconference.

13:02:22 16 THE COURT: All right.

13:02:23 17 CLERK WOOD: Mr. Anderson, will you raise your
13:02:25 18 right hand.

13:02:25 19 EVAN ANDERSON,
13:02:25 20 having been first duly sworn to testify the truth, the
13:02:25 21 whole truth, and nothing but the truth, testified via
13:02:36 22 Zoom as follows:

13:02:40 23 DIRECT EXAMINATION

13:02:40 24 BY MR. HART:

13:02:40 25 Q. Good afternoon, sir. Would you please introduce

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13:02:41 1 yourself to the Court.

13:02:44 2 A. Yes. My name is Evan Anderson. I am lead policy

13:02:48 3 expert at Twitter within their Trust and Safety

13:02:52 4 Department.

13:02:52 5 Q. And in that capacity with Twitter, what are your

13:02:58 6 duties there?

13:02:58 7 A. My duties include maintaining and defining

13:03:05 8 policies relating to child safety for Twitter products.

13:03:08 9 Q. And is how long have you been at Twitter?

13:03:11 10 A. I've been at Twitter since August 2014.

13:03:14 11 Q. So at this point a little past seven years?

13:03:18 12 A. That's correct.

13:03:19 13 Q. And as far as your education goes, what's your

13:03:22 14 educational background?

13:03:24 15 A. I have a Bachelor of Arts from Marymount

13:03:29 16 University in Criminal Justice and Sociology.

13:03:33 17 Q. And when is it that you graduated?

13:03:35 18 A. 2008.

13:03:41 19 Q. All right. Prior to your time at Twitter, where

13:03:43 20 was it that you worked?

13:03:45 21 A. For a time I worked at a nonprofit consulting

13:03:51 22 firm. That was about a year following my graduation from

13:03:55 23 Marymount University. And then I worked five years at

13:03:59 24 the National Center For Missing and Exploited Children on

13:04:02 25 their Exploited Children Unit.

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13:04:05 1 Q. All right. And while you were there at the
13:04:07 2 National Center For Missing and Exploited Children, and
13:04:11 3 would it be accurate to say that you folks in the field
13:04:14 4 will sometimes refer to this as NCMEC?

13:04:18 5 A. That's correct.

13:04:19 6 Q. While you were there, what were your duties and
13:04:22 7 responsibilities?

13:04:24 8 A. I was the Cyber -- a CyberTipline analyst,
13:04:31 9 reviewing reports from the public and also companies --
13:04:34 10 technology companies registered as electronic service
13:04:37 11 providers. I also worked directly with law enforcement
13:04:41 12 or industry company representatives to just make sure
13:04:45 13 that the CyberTipline reporting process and referral
13:04:48 14 process worked smoothly.

13:04:52 15 Q. Now, as far as it goes, fair to say you're not a
13:04:54 16 lawyer?

13:04:55 17 A. Correct. I have no legal training.

13:04:58 18 Q. And as far as is it goes for Twitter, while you
13:05:02 19 are well familiar with Twitter's policies and practices
13:05:08 20 relating to child sexual exploitation material, your
13:05:13 21 wheelhouse is in sort of how those policies interact, not
13:05:16 22 necessarily the legal implications of those?

13:05:20 23 A. Correct, just really focusing on the intersection
13:05:25 24 of online safety policies, policies pertaining to child
13:05:29 25 exploitation that are -- and the standards that are

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13:05:31 1 associated with those throughout the internet industry
13:05:34 2 and how we deploy those at Twitter.

13:05:37 3 Q. And as far as your computer -- I mean, we're
13:05:42 4 talking about a technology that exists on the internet
13:05:45 5 through computers. Are you a computer forensic analyst?

13:05:49 6 A. I'm not.

13:05:51 7 Q. How would you esteem your, I guess, knowledge
13:05:55 8 relative to computer-related issues?

13:06:00 9 A. I would say I have a moderate understanding of
13:06:04 10 technology, both powering products like Twitter but also
13:06:09 11 used to identify apparent violations of the policies that
13:06:13 12 we maintain.

13:06:17 13 Q. All right. So while not to the level of, I guess,
13:06:19 14 a computer forensics expert, you know more than the
13:06:22 15 average person regarding those sort of things?

13:06:25 16 A. Certainly as relates to Twitter, yes.

13:06:27 17 Q. All right. And is that based solely upon your job
13:06:30 18 and the time that you've been there?

13:06:32 19 A. That's right, my training and experience working
13:06:36 20 in this role.

13:06:37 21 Q. And as far as experience testifying, have you
13:06:40 22 testified before?

13:06:42 23 A. No, this is my first time.

13:06:44 24 Q. All right. Just so we know or so you know, if at
13:06:49 25 any point in time I ask a question or defense counsel or

13:06:52 1 even the Court asks a question that doesn't make sense,
13:06:55 2 it's okay for you to ask us to repeat it in a way that
13:06:59 3 you either understand or breaks it into smaller parts.

13:07:02 4 Do you understand that?

13:07:03 5 A. Yes, I do.

13:07:04 6 Q. And if for some reason -- well, you've already
13:07:09 7 been doing this. You've been answering questions out
13:07:12 8 loud with an audible and intelligible response. If you
13:07:15 9 say things like "uh-huh" or "huh-uh," I may ask you to
13:07:18 10 clarify exactly what you're saying.

13:07:20 11 Do you understand?

13:07:21 12 A. Yes, I do.

13:07:22 13 Q. Now, I want to get us a general explanation of
13:07:29 14 what Twitter is, just for purposes of the record. What
13:07:33 15 service does Twitter provide?

13:07:36 16 A. We provide a service for logged-in users who have
13:07:42 17 an account on Twitter to post messages with a character
13:07:48 18 limit and a limit to how much media -- that could be
13:07:52 19 video or image or even a broadcast from their account --
13:07:57 20 where they can post that for followers and non-followers,
13:08:00 21 people who are not interacting with them directly, to see
13:08:03 22 that message.

13:08:04 23 It has often been described as a pseudo-microphone
13:08:10 24 to the average person. They can also control who sees
13:08:16 25 their posts through following relationships, where they

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13:08:19 1 accept. They protect their tweets. They allow users to
13:08:24 2 interact with their tweets only if they approve of the
13:08:27 3 follower relationship. And we also allow for private
13:08:33 4 one-to-one or one-to-many direct messaging.

13:08:38 5 Q. And as far as all of this service that Twitter
13:08:41 6 provides, is this all done on servers owned by Twitter?

13:08:45 7 A. That's correct.

13:08:46 8 Q. And this may sound like a silly question but I
13:08:49 9 need to ask it. Is Twitter part of the government?

13:08:54 10 A. No, it is not.

13:08:55 11 Q. And just to be clear, I'm saying government as
13:09:00 12 though I'm referring to the United States government.
13:09:02 13 Would it be fair to say that Twitter has a footprint that
13:09:07 14 well exceeds the United States boundaries?

13:09:08 15 A. Yes, it does. The majority of the user base are
13:09:12 16 located outside of the United States.

13:09:13 17 Q. And are you an arm or extension of any of those
13:09:17 18 other governments?

13:09:18 19 A. No, we are not.

13:09:20 20 Q. Are you paid or subsidized by the government?

13:09:23 21 A. No, we are not.

13:09:25 22 Q. And just to clarify, while I just said "the
13:09:30 23 government," I mean any government.

13:09:31 24 A. That's correct.

13:09:35 25 Q. Other than paying attention to the laws and

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13:09:39 1 regulations, both here in the United States and abroad
13:09:44 2 for your daily operation, does the government or any
13:09:50 3 government tell you how to conduct your business there at
13:09:52 4 Twitter?

13:09:53 5 **A. No, they do not.**

13:09:54 6 Q. As far as Twitter goes, can you give us an idea --
13:09:58 7 I guess I want to have an idea of the size or scope of
13:10:01 8 Twitter. How many users did Twitter have last year?

13:10:07 9 A. Oh, well, I can tell you based off of a recent
13:10:13 10 earnings call to the public. Twitter shared that we have
13:10:16 11 over 200 million daily, active users. I believe that's
13:10:21 12 been a pretty constant number for at least the past year,
13:10:24 13 so I believe that response can also cover for last year,
13:10:27 14 but that's the information I have awareness of right now.

13:10:30 15 Q. And is that just U.S.-based users or global users?

13:10:34 16 A. Global.

13:10:39 17 Q. And you may or may not be able to answer this
13:10:42 18 question, given your title and duties, but how is it,
13:10:47 19 just generally, that Twitter makes money?

13:10:51 20 A. Generally we make money off of advertising,
13:10:57 21 allowing private companies to take out ads for their
13:11:02 22 products or services, and those are serviced to users who
13:11:08 23 are using the product.

13:11:09 24 Q. For a user to use the product, I want to talk
13:11:12 25 about that process. How does a user go about setting up

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13:11:19 1 an account?

13:11:20 2 A. They can access our service initially by

13:11:25 3 downloading the application from any mobile shop, mobile

13:11:31 4 online app store, as well as just going to Twitter.com in

13:11:36 5 any kind of -- in any browser, mobile or desktop or

13:11:40 6 laptop, and they provide a few credentials that they

13:11:45 7 decide -- they determine that they'd like to provide.

13:11:47 8 That can be email address or phone number that they use

13:11:51 9 to complete the registration steps. And it's about three

13:11:55 10 steps to create an account.

13:11:57 11 Q. And as far as setting up that account, does it

13:12:02 12 cost anything for a user to set up their account?

13:12:05 13 A. No, it does not.

13:12:07 14 Q. Now, when a user sets up an account, do you have

13:12:12 15 any agreements that you require of the user before they

13:12:16 16 start getting access to Twitter services?

13:12:20 17 A. Yes. Before they -- before they wrap up the

13:12:25 18 actual sign-up flow, they have to agree to our terms of

13:12:29 19 service, our privacy policies, as well as our cookies

13:12:32 20 policy.

13:12:34 21 Q. All right. Before -- going to ask you a lot of

13:12:42 22 questions about a number of those things. Before we get

13:12:45 23 into that more detailed discussion of Twitter, the user

13:12:48 24 experience, how you guys deal with child sexual

13:12:52 25 exploitation material, I want to make sure you've

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13:12:54 1 reviewed several exhibits which we'll be referencing as
13:12:58 2 we go along here.

13:13:01 3 Would it be accurate to say, in anticipation of
13:13:05 4 your testimony here this afternoon, I have provided you
13:13:07 5 copies of Government's Exhibits 1 through -- I believe
13:13:10 6 it's 7?

13:13:12 7 A. Yes, you have. I've received those and reviewed
13:13:14 8 them.

13:13:15 9 Q. All right. And are all of those things of which
13:13:19 10 you're familiar with?

13:13:20 11 A. Yes, I am.

13:13:21 12 Q. All right. I'm going to go down sort of that list
13:13:24 13 more specifically.

13:13:28 14 MR. HART: And I am going to share my screen as I
13:13:31 15 do so, if that's all right with the Court.

13:13:37 16 THE COURT: Of course.

13:13:37 17 BY MR. HART:

13:13:41 18 Q. All right. And I'm going to pull up first what's
13:13:49 19 marked as Exhibit No. 1. Whoops, it moved. Of course,
13:14:00 20 it went to -- oh, it hung it up. I'm sorry. Let me stop
13:14:10 21 and reshare.

13:14:22 22 All right. What we have here in Government's
13:14:26 23 Exhibit No. 1, this is what purports to be CyberTipline
13:14:29 24 report 61606638. Are you able to see that?

13:14:34 25 A. Yes, I am.

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13:14:35 1 Q. And with the caveat and acknowledgement that this
13:14:41 2 document does not include the attached files that are
13:14:43 3 referenced in it, does Government Exhibit 1 reflect the
13:14:50 4 CyberTip submitted to Twitter relating to the
13:14:53 5 mikeyfromtumblr account?

13:14:55 6 **A. Yes, it does.**

13:14:56 7 Q. And more specifically, if as we were -- if we were
13:15:00 8 to scroll through, this is Twitter's report then
13:15:03 9 contained in Section A on pages 1 through 5 of this
13:15:14 10 CyberTip?

13:15:15 11 **A. Yes.**

13:15:15 12 Q. And just so we are clear and in case it's
13:15:18 13 referenced later, was there a second duplicate report for
13:15:21 14 this account submitted as CyberTip 61621395?

13:15:30 15 **A. Yes.**

13:15:32 16 Q. All right. And just so you know and to headline
13:15:34 17 it for the counsel and the Court, we don't plan to have
13:15:39 18 that one introduced since it's a duplicate of this one.

13:15:46 19 While we do not have the attached files and just
13:15:48 20 so we're clear on what I'm talking about with you, I'm
13:15:53 21 scrolling down here to where it talks about uploaded file
13:16:00 22 information. And this is on -- starts on page, I guess,
13:16:04 23 3 and really, in substance, on page 4 and 5 of the
13:16:09 24 CyberTipline report. But these files that were uploaded,
13:16:12 25 that is what we're referencing that's not included in

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13:16:16 1 this document? Is that a "yes"?

13:16:21 2 **A. Correct.**

13:16:32 3 Q. All right. Now, I'm going to stop my share just

13:16:35 4 for a second and go on to No. 2. And what I'm showing

13:16:46 5 you, are you able to see this, what's been marked as

13:16:49 6 Government's Exhibit No. 2?

13:16:50 7 **A. Yes.**

13:16:56 8 Q. And with this same acknowledgement or caveat that

13:17:00 9 this does not include the attached files, does Government

13:17:02 10 Exhibit No. 2 reflect the CyberTip that was submitted by

13:17:06 11 Twitter relating to the survnglife8 account?

13:17:09 12 **A. Yes, it does.**

13:17:11 13 Q. And in this -- for this particular CyberTip, is

13:17:15 14 Twitter's report contained in Section A on pages 1

13:17:17 15 through 3?

13:17:19 16 **A. Yes.**

13:17:21 17 Q. And as it relates to both of these --

13:17:26 18 MR. HART: And, Your Honor, I would move to admit,

13:17:28 19 for purposes of our hearing today, Government's Exhibits

13:17:30 20 No. 1 and 2.

13:17:32 21 THE COURT: Any objection?

13:17:35 22 MR. BIEBIGHAUSER: A question of clarification, if

13:17:36 23 I can, Your Honor.

13:17:37 24 THE COURT: All right.

13:17:40 25 MR. BIEBIGHAUSER: Sir, first of all, can you hear

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13:17:41 1 me?

13:17:43 2 THE WITNESS: Yes, I can.

13:17:44 3 MR. BIEBIGHAUSER: Okay. My name is Mitch
13:17:46 4 Biebighauser. I'm the attorney for Mr. Sporn. Mr. Hart
13:17:50 5 was referring to these on pages 1 through 5 being
13:17:52 6 Twitter's report. Did Twitter author this document?

13:17:56 7 THE WITNESS: We fill in fields associated with
13:18:00 8 this online form that currently is being viewed as a PDF,
13:18:03 9 but it's filled out through an online process where we
13:18:09 10 map and fill in the fields of the form. So the actual
13:18:16 11 skeletal structure of the form is created by NCMEC and
13:18:19 12 it's a standard CyberTip format for all electronic
13:18:24 13 service providers, and then we filled in the fields. So
13:18:27 14 essentially anything associated with the accounts in
13:18:30 15 question or the files uploaded by Twitter and included in
13:18:33 16 the CyberTip would be items that we provided and filled
13:18:36 17 out.

13:18:36 18 MR. BIEBIGHAUSER: That's all. No objection.

13:18:38 19 THE COURT: 1 and 2 are admitted.

13:18:41 20 BY MR. HART:

13:18:42 21 Q. Just I'm going to click out of this just to give
13:18:50 22 us a bit of a timeline and I'm going to go back to
13:18:53 23 Government's Exhibit No. 1. When is -- I'm going to
13:19:03 24 share my screen in case that aids you in answering the
13:19:06 25 question. But when is this report submitted by Twitter

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13:19:10 1 to NCMEC?

13:19:15 2 **A. It would have been submitted on December 23rd,**
13:19:19 3 **2019.**

13:19:19 4 Q. And is that what we see right here that I'm
13:19:23 5 highlighting?

13:19:24 6 **A. That's correct.**

13:19:25 7 Q. Okay. And as far as when the reported account was
13:19:36 8 created, does that then appear on page 3? And I'm -- and
13:19:46 9 when I say "page 3," I'm referring to the page numbers
13:19:48 10 that are up here at the top of the report, not the
13:19:51 11 document itself.

13:19:55 12 But as far as the creation of that account, does
13:20:02 13 that appear on page 3 where it lists the IP address upon
13:20:06 14 registration right here?

13:20:07 15 **A. Yes, that's correct.**

13:20:08 16 Q. Okay. And so for this account it's what date
13:20:13 17 there?

13:20:13 18 **A. August 26th, 2019.**

13:20:17 19 Q. Okay. And as far as termination or suspension of
13:20:24 20 this account goes, would the report or date/time as we
13:20:32 21 saw on the very front page, is that going to be the same
13:20:35 22 or later than when the account was terminated by Twitter?

13:20:38 23 **A. It would have been after the account was**
13:20:40 24 **terminated.**

13:20:41 25 Q. All right. So the report gets generated after

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13:20:44 1 Twitter has terminated the account?

13:20:46 2 **A. That's correct.**

13:20:49 3 Q. And just so we're clear, does that apply to both

13:20:53 4 of these CyberTips, that same process is in play?

13:20:58 5 **A. Yes.**

13:20:58 6 Q. All right. Now, just so we kind of have the front

13:21:01 7 end in our heads of the first CyberTip, this account

13:21:05 8 starts August 26th of 2019. If we then go to the second

13:21:16 9 CyberTip and use that date of reporting from y'all that

13:21:24 10 appears on the front page, does that give us a window

13:21:27 11 that goes from August 26th then to April 28th of 2020?

13:21:34 12 **A. That's correct.**

13:21:35 13 Q. All right. Now as it relates to that window of

13:21:48 14 time, I'm going to move on now to Government's Exhibits 3

13:21:52 15 through 7. And just so we kind of have an orientation to

13:22:01 16 this -- well, we'll just start out with the terms of

13:22:04 17 service.

13:22:11 18 Now, this document that I'm showing you, what's

13:22:14 19 been marked as Government's Exhibit No. 3, are you

13:22:17 20 familiar with this?

13:22:18 21 **A. Yes, I am.**

13:22:18 22 Q. And just generally, what is this that we're

13:22:22 23 looking at?

13:22:23 24 **A. It details the terms of service for using the**

13:22:28 25 **Wayback Machine for a period that would have been**

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13:22:30 1 applicable to the range associated with the accounts
13:22:34 2 being live on the service.

13:22:38 3 Q. I'm going to say that in a slightly different way
13:22:41 4 then. Does Government's Exhibits No. 3 reflect Twitter's
13:22:44 5 terms of service that were in effect between July of 2019
13:22:48 6 and May of 2020?

13:22:51 7 A. Yes.

13:22:51 8 Q. Now, just to orientate ourselves, we see right
13:22:55 9 here at the very beginning it says, "We've made some
13:22:57 10 updates to our terms of service that go into effect
13:23:00 11 January 1st of 2020." [As read.] Do you see that?

13:23:04 12 A. Yes.

13:23:05 13 Q. For this exhibit do the terms that came into
13:23:08 14 effect on January 1st of 2020 show up right here at the
13:23:12 15 very beginning?

13:23:15 16 A. Can you ask the question again? I'm sorry.

13:23:17 17 Q. I'm sorry. In terms of when -- what we're looking
13:23:21 18 at here, does Government's Exhibit No. 3 actually have
13:23:25 19 the terms of service that are from January 1st, 2020, as
13:23:29 20 well as what was before January 1st of 2020?

13:23:35 21 A. It would be -- let me see the document.

13:23:44 22 Q. If I may ask my question slightly different.

13:23:47 23 A. Sure.

13:23:47 24 Q. 'Cause it is a little confusing. Do we actually
13:23:50 25 have both sides of January 1st, 2020, reflected in this

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13:23:55 1 document?

13:24:00 2 **A. I'm just confirming that. Sorry.**

13:24:05 3 Q. Okay. I'm going to scroll down to about page --

13:24:08 4 I think it's 19 of the document.

13:24:20 5 A. Okay. Thanks for the time. Yes, confirming that

13:24:23 6 the answer is yes.

13:24:24 7 Q. All right. And so we see here on page -- is it 19

13:24:29 8 where the effective date of January 1st applies to

13:24:32 9 everything that goes above that? Are you able to see

13:24:43 10 that, Mr. Anderson?

13:24:45 11 A. On page 19? I believe -- I'm sorry, did you say

13:24:58 12 above that or below that?

13:25:00 13 Q. Above that. Does that relate it to everything

13:25:03 14 that is effective January 1st of 2020?

13:25:18 15 A. Yes, it does.

13:25:19 16 Q. All right. Then we see the next part where it

13:25:21 17 says, "Archive of previous terms effective January 1st,"

13:25:25 18 then it goes into, I guess, the old terms. Is that what

13:25:28 19 we're to understand?

13:25:30 20 A. Yes, that's correct.

13:25:31 21 Q. And if we go all the way down here almost to the

13:25:34 22 bottom, does that give us the date of when these were in

13:25:40 23 effect right here?

13:25:47 24 A. Yes, that's correct.

13:25:48 25 Q. All right. And those went into effect what date?

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13:25:54 1 A. I'm sorry. One minute. It looks like my screen
13:26:02 2 is now --
13:26:13 3 Sorry, I lost the Zoom screen. I have it back
13:26:17 4 now. It's May 25th, 2018.
13:26:18 5 Q. Okay. And for -- similar to this, does
13:26:25 6 Government's Exhibit No. -- I'm going to stop my share
13:26:29 7 here and I'm going to go to Government's Exhibit 4, which
13:26:33 8 is the privacy policy. Does that include the same sort
13:26:45 9 of -- the new stuff that's January 1st of 2020 is at the
13:26:48 10 very beginning and then it jumps to the older archived
13:26:53 11 stuff beginning at about page 20 of this document?
13:26:58 12 A. That's correct.
13:27:07 13 Q. All right. Now, as it relates to those two
13:27:09 14 documents, are those the only two where you have both an
13:27:15 15 archived and sort of this change that happens midway
13:27:20 16 through our window of applicable time?
13:27:23 17 A. Yes, that's correct.
13:27:23 18 Q. All right. So I'm going then to Government's
13:27:26 19 Exhibit No. 5. Well, as to both, I'm going to back up.
13:27:31 20 As to both Government's Exhibit No. 3 and Government's
13:27:33 21 Exhibit No. 4, do those accurately reflect Twitter's
13:27:37 22 terms of service and the privacy policy that was in
13:27:41 23 effect at that window of time that we've identified?
13:27:45 24 A. Yes, they do.
13:27:47 25 Q. Okay. And then turning to Government's Exhibit

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13:27:51 1 No. 5, I'm going to show you this one. What are we
13:27:58 2 seeing here?

13:28:01 3 **A. These are the Twitter rules.**

13:28:05 4 Q. And were these in effect during that same time
13:28:10 5 period that we've described, July 2019 to May of 2020?

13:28:14 6 **A. Yes.**

13:28:15 7 Q. All right. And then we're going to move to
13:28:23 8 Government's Exhibit No. 6. I'm going to share that with
13:28:26 9 you. What is it we're looking at here in Government's
13:28:29 10 Exhibit No. 6?

13:28:31 11 **A. This is our Help Center Child Sexual Exploitation**
13:28:36 12 **Policy page.**

13:28:36 13 Q. And would this have been in effect at the time --
13:28:40 14 does Government's Exhibit No. 6 reflect Twitter's child
13:28:44 15 sexual exploitation policy in effect between July 2019
13:28:47 16 and May of 2020?

13:28:49 17 **A. Yes.**

13:28:51 18 Q. And then, lastly, I'm going to show you what's
13:28:57 19 been marked as Government's Exhibit No. 7 and going to
13:29:03 20 ask you the same question: does Government's Exhibit
13:29:07 21 No. 7 reflect Twitter's enforcement philosophy that was
13:29:12 22 in effect between July 2019 and May of 2020?

13:29:14 23 THE COURT: Mr. Hart, would you first have the
13:29:16 24 witness identify what Government's Exhibit No. 7 is?

13:29:18 25 MR. HART: Oh, yes, Your Honor.

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13:29:21 1 BY MR. HART:

13:29:21 2 Q. Mr. Anderson, what are we looking at here in

13:29:23 3 Government's Exhibit No. 7?

13:29:25 4 A. Yes, if you scroll down you'll actually -- yeah,

13:29:29 5 there we go. It's a document that's available through

13:29:33 6 our Help Center, in the same area of the Help Center

13:29:37 7 where our Child Sexual Exploitation Policy page is

13:29:40 8 located. And this outlines our comprehensive approach to

13:29:44 9 how we develop our policies, how we enforce them, in an

13:29:48 10 effort to communicate to users expectations around doing

13:29:52 11 business on and using Twitter as a service.

13:29:57 12 Q. Now, I'm going to come back to each of these as we

13:30:02 13 sort of go along, but as it relates to this Government's

13:30:04 14 Exhibit No. 7, does this reflect your -- Twitter's

13:30:08 15 enforcement philosophy in effect between July 2019 and

13:30:12 16 May 2020?

13:30:14 17 A. Yes.

13:30:15 18 Q. All right.

13:30:15 19 MR. HART: Your Honor, I would move to admit

13:30:17 20 Government's Exhibits 3 through 7 inclusive.

13:30:25 21 THE COURT: Mr. Biebighauser?

13:30:27 22 MR. BIEBIGHAUSER: No objection.

13:30:28 23 THE COURT: 3, 4, 5, 6, and 7 are admitted.

13:30:35 24 BY MR. HART:

13:30:35 25 Q. All right. Mr. Anderson, as you said before, the

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13:30:41 1 users have to agree to the terms and policies. Does that
13:30:45 2 include those rules that we referenced in Government's
13:30:49 3 Exhibit No. 5?
13:30:52 4 **A. Yes, those are all part of our terms of service.**
13:30:55 5 Q. Okay. And just so we're clear, when you say
13:30:58 6 "those are all part," are you referring to Government's
13:31:01 7 Exhibit No. 6 and 7 as well?
13:31:03 8 **A. Yes, that's correct.**
13:31:05 9 Q. And what happens if a user doesn't agree to those
13:31:11 10 terms or doesn't follow your terms or rules?
13:31:15 11 **A. As is particularly laid out in the Child Sexual**
13:31:20 12 **Exploitation Policy page, if a user engages in activity**
13:31:24 13 **that crosses the lines established in that policy page**
13:31:27 14 **for when it comes to child sexual exploitation, for**
13:31:32 15 **example, or really if you go to any of those policies on**
13:31:34 16 **the help center which are summarized on the rules page,**
13:31:40 17 **the enforcement action might include permanent suspension**
13:31:45 18 **of the account.**
13:31:46 19 Q. All right. Well, let's -- from Twitter's
13:31:51 20 perspective, why are these terms of service, rules,
13:31:56 21 policies, why are these things important?
13:31:59 22 MR. BIEBIGHAUSER: Objection, Your Honor.
13:32:00 23 **A. We --**
13:32:01 24 THE COURT: Just a second, please.
13:32:02 25 MR. BIEBIGHAUSER: Objection, Your Honor.

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13:32:04 1 Twitter's perspective is not relevant.

13:32:07 2 THE COURT: Overruled. You may answer the
13:32:09 3 question.

13:32:11 4 A. We believe it's important for users to understand
13:32:14 5 what lines we establish for safe conduct and using the
13:32:20 6 platform responsibly as we see it and as we intend for
13:32:24 7 the services to be used.

13:32:25 8 We also, for some of the types of activity that
13:32:29 9 our experience informs us might take place on a platform
13:32:33 10 like Twitter, we want to make sure that people are aware
13:32:36 11 of how we maintain safety and promote a safe experience,
13:32:41 12 and we hope that users can join us in facilitating that.

13:32:52 13 BY MR. HART:

13:32:56 14 Q. All right. I'm going to now sort of shift gears
13:33:03 15 and go back to some of the terms of service, privacy
13:33:12 16 policy, those sort of things.

13:33:13 17 You've already indicated that the terms -- well,
13:33:19 18 would it be fair to say that the terms of service is sort
13:33:22 19 of the big global document, and then privacy policy, and
13:33:25 20 then it starts sort of coming down in these smaller
13:33:30 21 pieces where folks -- the way that Twitter responds to
13:33:35 22 those sort of things, it gets a little bit more granular.

13:33:39 23 Is that --

13:33:39 24 A. That's right.

13:33:40 25 Q. Okay. And so you've already explained how

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13:33:44 1 Twitter's terms of service apply. I'm going to bring
13:33:49 2 that up, though, real quick. And I'm going to page, I
13:34:07 3 believe, 19 because that's what would have been in effect
13:34:12 4 at the time both accounts were opened or registered;
13:34:14 5 correct?

13:34:15 6 **A. That's correct.**

13:34:19 7 Q. And as we go through this --

13:34:21 8 THE COURT: Mr. Hart, have you identified which
13:34:23 9 exhibit you're in?

13:34:23 10 MR. HART: I'm sorry, Your Honor. This is
13:34:25 11 Government's Exhibit No. 3.

13:34:26 12 THE COURT: Thank you. And this is page 19, as
13:34:29 13 actually marked by the page numbers in the document and
13:34:33 14 not --

13:34:34 15 MR. HART: It's both, Your Honor. It's both the
13:34:35 16 page numbers in the document as well as the PDF document.

13:34:39 17 THE COURT: All right.

13:34:42 18 BY MR. HART:

13:34:42 19 Q. And just so we're clear, right out of the gates,
13:34:47 20 Mr. Anderson, there's two different sections right here
13:34:50 21 that we see. Are there really different rules between
13:34:56 22 the United States v. The European Union?

13:35:02 23 **A. Substantively, I believe they are very similar.**

13:35:07 24 **There are -- because of European Union-oriented**
13:35:10 25 **regulations, there is additional language outlining that.**

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13:35:14 1 Q. All right. How do you determine -- does Twitter
13:35:18 2 sort of figure out -- well, never mind. Scratch that.
13:35:25 3 That's more me just being curious than asking a question
13:35:28 4 that's important.

13:35:30 5 But fair to say right here we actually see, right
13:35:33 6 out of the gates, that you're telling the user what
13:35:35 7 comprises this whole agreement about what the conditions
13:35:40 8 are for access?

13:35:43 9 A. **That's correct.**

13:35:43 10 Q. And when we see these lines underneath things, are
13:35:49 11 those hyperlinks where if a user wanted to click on it
13:35:52 12 they could see that thing?

13:35:53 13 A. **That's correct.**

13:35:53 14 Q. Now, if we were to click on those, those would --
13:35:56 15 for instance, the privacy policy. That would take us to
13:35:58 16 what's been marked as Government's Exhibit No. 4?

13:36:01 17 A. **That's correct.**

13:36:02 18 Q. Twitter rules would then take us to Government's
13:36:04 19 Exhibit No. 5?

13:36:06 20 A. **That's correct.**

13:36:07 21 Q. And then within that you could drill down to
13:36:10 22 Government's Exhibit No. 6 and 7?

13:36:13 23 A. **That's correct.**

13:36:14 24 Q. All right. And where you talk about using the
13:36:26 25 services, you agree to be bound by those terms, is that

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13:36:29 1 actually language that appears right here on page 20?

13:36:33 2 **A. Yes.**

13:36:37 3 Q. Okay. And then here in this section right here of

13:36:40 4 Who May Use the Services, do you -- is that again

13:36:44 5 repeating this it's a conditional -- these are the

13:36:47 6 conditions of use?

13:36:48 7 **A. Correct.**

13:36:52 8 Q. And then as we go I'm still -- I'm now on page 21,

13:36:56 9 but it's just now Section 2. Do y'all get into privacy

13:37:01 10 fairly quickly here?

13:37:02 11 **A. Yes, we do.**

13:37:03 12 Q. And when you're talking privacy, this is the

13:37:06 13 privacy policy that's referenced in Government's Exhibit

13:37:08 14 No. 4?

13:37:10 15 **A. That's correct.**

13:37:15 16 Q. And then when we get down here again into Section

13:37:22 17 4 called Using the Services, when we see the "Please

13:37:27 18 review the Twitter Rules and Policies," is that again the

13:37:31 19 material that's referenced in Government's Exhibits 5, 6,

13:37:34 20 and 7?

13:37:35 21 **A. That's correct.**

13:37:41 22 Q. All right. Now, I'm going to direct you to page

13:37:46 23 24 of this, which just comes down here a little bit

13:37:50 24 lower, and I'm going to highlight a part here.

13:38:04 25 Are you able to see that?

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13:38:07 1 A. Yes, I am.

13:38:07 2 Q. I'm going to scroll that up just a little bit so

13:38:10 3 it's a little easier for everyone to see.

13:38:13 4 The part that I've highlighted, what is it you're

13:38:16 5 essentially telling Twitter users?

13:38:17 6 MR. BIEBIGHAUSER: Objection, Your Honor. The

13:38:18 7 document speaks for itself.

13:38:22 8 THE COURT: Well, I'll allow him to explain what

13:38:25 9 the document says, but that objection would be effective

13:38:29 10 if he then went beyond the language of the document to

13:38:32 11 try to explain what it meant.

13:38:34 12 MR. BIEBIGHAUSER: I understood that to be the

13:38:35 13 question, Your Honor.

13:38:36 14 MR. HART: Your Honor, I'll withdraw the question.

13:38:38 15 THE COURT: All right.

13:38:40 16 BY MR. HART:

13:38:40 17 Q. Mr. Anderson, you don't have to answer that

13:38:42 18 question, as I think we all agree the document does speak

13:38:46 19 for itself.

13:38:47 20 All right. I'm going to now shift gears and go to

13:38:50 21 the privacy policy, so one moment while I get things out

13:38:56 22 of the way. And because we're talking about the terms of

13:39:05 23 service that were in play at the time of the account's, I

13:39:13 24 guess, registration for both of these, I'm going directly

13:39:15 25 to page 20 of the document. So let me get there.

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13:39:22 1 THE COURT: Are we now on Exhibit 4?

13:39:24 2 MR. HART: Exhibit 4, yes, Your Honor.

13:39:32 3 BY MR. HART:

13:39:32 4 Q. All right. Mr. Anderson, are you able to see what

13:39:35 5 I've pulled up here from Government's Exhibit No. 4?

13:39:39 6 A. Yes.

13:39:39 7 Q. And I believe this is actually page 21, but it's

13:39:48 8 effectively -- that's where the privacy policy that was

13:39:50 9 effective until January 1st, 2020, starts; is that right?

13:39:54 10 A. That's correct.

13:39:55 11 Q. Okay. Now, I'm going to scroll down here to

13:40:01 12 Section 3.3, which is on page 32 of that document.

13:40:16 13 Are you with me so far?

13:40:18 14 A. Yes.

13:40:21 15 Q. Now, as far as what this -- well, I guess my

13:40:25 16 question is kind of going to be the document sort of

13:40:33 17 speaks for itself, but would it be accurate to say in

13:40:42 18 this section Twitter is alerting users that it may

13:40:45 19 preserve and disclose a user's data to protect the safety

13:40:49 20 and integrity of its platform?

13:40:51 21 MR. BIEBIGHAUSER: Objection, Your Honor. It's

13:40:53 22 accurate to say what it says. It's not a rephrasing by

13:40:56 23 Mr. Hart.

13:40:57 24 THE COURT: Overruled. He's not asking for any

13:40:59 25 interpretation beyond the language that's there.

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13:41:03 1 BY MR. HART:

13:41:04 2 Q. Mr. Anderson, is that an accurate statement of
13:41:07 3 what Twitter is advising users?

13:41:12 4 A. **That's correct.**

13:41:13 5 Q. And in this case is that then what Twitter
13:41:19 6 ultimately did relative to these two CyberTips?

13:41:23 7 MR. BIEBIGHAUSER: Objection. Lack of --

13:41:26 8 A. **That is correct.**

13:41:25 9 MR. BIEBIGHAUSER: Lack of personal knowledge.

13:41:27 10 THE COURT: Can you lay a foundation for the
13:41:28 11 witness's ability to answer that last question, Mr. Hart?

13:41:31 12 MR. HART: I will go back, Your Honor. We'll get
13:41:33 13 to that. I'll put a bookmark to that and we may come
13:41:37 14 back to that, Your Honor. I expect we'll cover that in
13:41:41 15 later questions as we get more into the substance of the
13:41:44 16 CyberTips. All right.

13:41:48 17 BY MR. HART:

13:41:48 18 Q. Mr. Anderson, I'm going to get out of No. 4 and
13:41:54 19 I'm going to No. 5, Government's Exhibit No. 5.

13:41:57 20 MR. BIEBIGHAUSER: Excuse me, Mr. Hart, to the
13:41:58 21 extent that the witness answered that last question, Your
13:42:00 22 Honor, I'd ask that it be stricken. We were talking at
13:42:06 23 the same time.

13:42:06 24 THE COURT: He didn't answer it.

13:42:07 25 THE REPORTER: Yes, he did.

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13:42:09 1 THE WITNESS: I did answer.

13:42:10 2 THE COURT: Hold on.

13:42:17 3 (Brief pause.)

13:42:24 4 THE COURT: Oh, he did. You're right,

13:42:26 5 Mr. Biebighauser. While we were talking, the witness

13:42:29 6 said, "That is correct," so I'll strike that answer.

13:42:34 7 BY MR. HART:

13:42:35 8 Q. Mr. Anderson, I'm now going to pull up what's been

13:42:38 9 marked and admitted as Government's Exhibit No. 5. And

13:42:44 10 this is the Twitter rules that you discussed earlier.

13:42:54 11 Now, why -- just generally, why is it that Twitter has

13:43:00 12 these rules on -- why do they have these rules?

13:43:05 13 MR. BIEBIGHAUSER: Objection. Irrelevant. Why

13:43:06 14 Twitter has the rules is not relevant.

13:43:10 15 THE COURT: Can you rephrase the question? It's

13:43:13 16 awfully broad, Mr. Hart. I'm not sure where you're

13:43:16 17 trying to head.

13:43:17 18 MR. HART: Certainly, Your Honor.

13:43:18 19 BY MR. HART:

13:43:18 20 Q. Mr. Anderson, are you trying to communicate the

13:43:24 21 expectations of your -- the conditions of using your

13:43:27 22 service to the users?

13:43:30 23 A. That's correct.

13:43:31 24 Q. And do these rules help you do that communication

13:43:34 25 to the users?

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13:43:37 1 A. Yes, they do.

13:43:39 2 Q. And as you go through these rules here, and

13:43:43 3 there's -- and I'm looking under Safety and then there's

13:43:50 4 Privacy. But under Safety, there's these headings of

13:43:53 5 Violence, Terrorism, Child Sexual Exploitation, Abuse,

13:43:56 6 Harassment, and so on and so forth.

13:44:00 7 Why is Twitter highlighting these particular areas

13:44:05 8 and then providing this Learn More out to the right?

13:44:10 9 MR. BIEBIGHAUSER: Objection. Irrelevant again as

13:44:12 10 to why Twitter is doing it.

13:44:13 11 THE COURT: Overruled.

13:44:18 12 A. The reason is for us to make sure users understand

13:44:22 13 those policy areas. We believe those policy areas

13:44:25 14 represent rather egregious behavior, and it's important

13:44:29 15 for every user to understand where lines are drawn and to

13:44:33 16 really, hopefully, avoid that activity or to understand

13:44:35 17 what's happening if they do see that kind of activity

13:44:38 18 happening on the platform.

13:44:39 19 BY MR. HART:

13:44:39 20 Q. Do -- well, as it relates to that, do y'all

13:44:43 21 provide some examples of what would constitute a

13:44:45 22 violation of these different types of activities?

13:44:48 23 A. In the Learn More sections, which go to the

13:44:53 24 specific policy pages, it details what would represent a

13:44:57 25 violation, as well as what is not in violation of the

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13:45:00 1 policy category.

13:45:02 2 Q. As you look -- looking through these under Safety,

13:45:07 3 I notice they start with "You may not," "You may not,"

13:45:10 4 and they continue. If you skip past Child Exploitation

13:45:14 5 with a bunch of "You may not" statements, but the Child

13:45:18 6 Sexual Exploitation, I guess, rule is worded slightly

13:45:23 7 different. Y'all state, "We have zero tolerance for

13:45:27 8 child sexual exploitation on Twitter."

13:45:29 9 Why does Twitter, I guess, take that approach to

13:45:35 10 child exploitation subject matter?

13:45:38 11 MR. BIEBIGHAUSER: Objection. Relevance.

13:45:40 12 THE COURT: Overruled.

13:45:44 13 A. We draw that distinction because of how serious we

13:45:47 14 believe the violations, if they occur, are.

13:45:49 15 BY MR. HART:

13:45:50 16 Q. Is it important for Twitter's business that it be

13:45:55 17 known as sort of aggressively inhospitable to folks who

13:46:00 18 might deal in child sexual exploitation?

13:46:03 19 MR. BIEBIGHAUSER: Objection. Your Honor, I don't

13:46:04 20 need to object every time. I think it's clear by now my

13:46:07 21 position. Can I have a standing objection?

13:46:09 22 THE COURT: You can have a standing objection,

13:46:10 23 but, obviously, what's going on here, Mr. Biebighauser,

13:46:13 24 is that the Government's trying to indicate what Twitter

13:46:15 25 wanted to communicate to users, which is extremely

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13:46:19 1 pertinent to this -- the purpose of this hearing.

13:46:22 2 Nevertheless, you can have a standing objection to this

13:46:24 3 entire line of inquiry, and the objection's overruled.

13:46:30 4 BY MR. HART:

13:46:30 5 Q. Do you need me to repeat the question,

13:46:32 6 Mr. Anderson?

13:46:33 7 A. That'd be helpful. Sorry.

13:46:34 8 Q. Is it important for Twitter's business that it be

13:46:38 9 known as aggressively inhospitable to folks who engage in

13:46:42 10 child sexual exploitation?

13:46:44 11 A. Yes, it is.

13:46:46 12 Q. And why is that?

13:46:49 13 A. We -- and this is echoed or reiterated in the

13:46:53 14 point around the "we have zero tolerance" for it.

13:46:58 15 People will not use Twitter. Twitter cannot exist as a

13:47:01 16 platform if that kind of behavior is taking place on it.

13:47:06 17 Q. Well, what would happen to Twitter's business if

13:47:08 18 Twitter became known as a safe place or a haven for child

13:47:12 19 pornography or child sexual exploitation?

13:47:16 20 A. I imagine users would no longer use it. Users who

13:47:20 21 are hoping to have a safe and secure experience would no

13:47:22 22 longer use it.

13:47:24 23 Q. All right. Now, you reference the child sexual

13:47:28 24 exploitation. Sort of the examples that you provide to

13:47:32 25 users about that, is that what's contained in

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13:47:34 1 Government's Exhibit No. 6?

13:47:37 2 **A. Yes.**

13:47:37 3 Q. All right. I'm going to pull that up and share

13:47:40 4 that. And out of the gates here do we then again see the

13:47:54 5 reiteration of the zero-tolerance-worded verbiage?

13:47:57 6 **A. Yes, that's correct.**

13:48:01 7 Q. And is -- what is in violation of this policy that

13:48:05 8 section that's got that heading, is that what you're

13:48:08 9 talking about where you're providing explanations?

13:48:10 10 **A. That's correct.**

13:48:15 11 Q. Now, does this -- as you look at this, are --

13:48:19 12 well, is this something that you, in your capacity there

13:48:22 13 at Twitter, that you've helped develop this policy?

13:48:25 14 **A. Yes, it is.**

13:48:27 15 Q. And just so we are clear, this same sort of -- I

13:48:33 16 know we're talking about child sexual exploitation

13:48:36 17 material. But just so we're clear, to somebody who's not

13:48:39 18 maybe paying attention to this, you guys have these sort

13:48:42 19 of policy statements for the other areas that we saw in

13:48:45 20 the rules; correct?

13:48:46 21 **A. That's correct.**

13:48:47 22 Q. And I know that we're focused on this. I don't

13:48:49 23 want to imply that Twitter is only focused on this, but

13:48:53 24 that's what we're talking about, just so that we're

13:48:56 25 clear.

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13:48:56 1 Does this -- the -- just as we look at this, does
13:49:03 2 this explanation, does this cover just child pornography
13:49:05 3 images or does your policy extend beyond child
13:49:10 4 pornography images?

13:49:11 5 A. **It extends beyond images to also behavior or other**
13:49:15 6 **types of interactions, with accounts sharing content or**
13:49:19 7 **talking about activity or intent.**

13:49:22 8 Q. All right. And let's go to the section that is
13:49:26 9 called What Happens If You Violate This Policy. This is
13:49:32 10 page 2 of that document. Are you with me so far?

13:49:35 11 A. **Yes.**

13:49:38 12 Q. Now, when you say -- and you bold it here --
13:49:42 13 "immediate and permanent suspension," what does that
13:49:46 14 mean?

13:49:46 15 MR. BIEBIGHAUSER: Objection. The document speaks
13:49:47 16 for itself.

13:49:49 17 THE COURT: Sustained.

13:49:53 18 BY MR. HART:

13:49:54 19 Q. When you say immediate and --

13:49:56 20 MR. HART: Your Honor, if I may ask the question a
13:49:57 21 slightly different way.

13:49:58 22 THE COURT: Again, I think you can ask him to
13:50:00 23 indicate what the policy says. And I understand your
13:50:04 24 difficulty, Mr. Hart, is that the policy says ten times
13:50:07 25 as many words as you want, and I don't think it's

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13:50:11 1 violative for you to go through and just highlight the
13:50:13 2 words that are pertinent to you. I just don't think you
13:50:16 3 can ask him to interpret what the policy says.

13:50:18 4 BY MR. HART:

13:50:22 5 Q. From a sort of the back-end technology side of
13:50:24 6 things, when you say "immediate and permanent
13:50:27 7 suspension," what does that mean relative to access to
13:50:31 8 the account?

13:50:32 9 A. **It will be suspended as in the user will no longer**
13:50:36 10 **be able to access it or modify any of its contents.**

13:50:40 11 Q. And I'll ask you when we get into the nuts and
13:50:42 12 bolts of how Twitter deals with that stuff, we'll get a
13:50:46 13 little more clarity on that. But is that then again --
13:50:57 14 well, actually, this language that we see right here of
13:51:03 15 "removed and then reported to the National Center For
13:51:08 16 Missing and Exploited Children," NCMEC, why do you guys
13:51:14 17 include that language?

13:51:15 18 MR. BIEBIGHAUSER: Objection. Relevance.

13:51:16 19 THE COURT: Overruled.

13:51:18 20 A. **We do that to demonstrate our intent to act in**
13:51:25 21 **accordance with U.S. law, which requires electronic**
13:51:29 22 **service providers who have identified this type of -- any**
13:51:33 23 **violations of what we believe to be child sexual**
13:51:35 24 **exploitation activity to be reported to the National**
13:51:39 25 **Center For Missing and Exploited Children.**

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13:51:39 1 BY MR. HART:

13:51:40 2 Q. Does that language come from Twitter or someone

13:51:43 3 else, from the government, from NCMEC? Where's it come

13:51:46 4 from?

13:51:46 5 A. It comes from -- Twitter intended to communicate

13:51:50 6 what our steps are whenever we identify a violation of

13:51:53 7 this policy, so it's 100 percent Twitter.

13:51:55 8 Q. As a business, is it your, I guess, decision or

13:52:00 9 option whether you participate in the NCMEC CyberTipline?

13:52:06 10 A. Yes, it is.

13:52:07 11 Q. And just so we kind of understand, how many

13:52:12 12 CyberTips does Twitter submit to NCMEC each year?

13:52:16 13 A. To give you an example of our most -- I don't have

13:52:19 14 the number of CyberTip submissions we've submitted to

13:52:23 15 date for 2022, but in 2020, for example, we submitted

13:52:28 16 65,000 unique CyberTips.

13:52:31 17 Q. And do you submit tips to other international or

13:52:34 18 foreign NCMEC-like organizations?

13:52:38 19 A. No, we do not.

13:52:39 20 Q. So NCMEC is the one place where you're -- well,

13:52:45 21 let me ask slightly different. Do you ever submit tips

13:52:49 22 or, I guess, make reports directly to law enforcement

13:52:54 23 organizations?

13:52:55 24 A. No, we do not.

13:53:01 25 Q. All right. And let's get into sort of the nuts

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13:53:15 1 and bolts of how Twitter goes about sort of doing these
13:53:21 2 sort of, I guess, enforcing your policies. Okay?

13:53:24 3 A. Okay.

13:53:24 4 Q. I don't want to get into the proprietary detail,
13:53:30 5 but can you tell us how Twitter goes about detecting
13:53:34 6 child sexual exploitation material on its servers?

13:53:38 7 MR. BIEBIGHAUSER: Objection. Relevance.

13:53:40 8 A. Yes.

13:53:40 9 THE COURT: Overruled.

13:53:44 10 BY MR. HART:

13:53:45 11 Q. And --

13:53:45 12 A. Yes, we -- sorry.

13:53:47 13 Q. No, go ahead, please.

13:53:48 14 A. Okay. We facilitate users to submit reports if
13:53:52 15 they come across such material or have information about
13:53:56 16 activities that might be taking place, and we promptly
13:53:59 17 review those. Our team members are full-time employees
13:54:03 18 of Twitter, review those and assess and in some cases
13:54:07 19 submit CyberTip reports from those reports.

13:54:09 20 Additionally, we work to proactively identify
13:54:14 21 those, and we do that through anything from keyword
13:54:18 22 association -- keywords that are associated directly with
13:54:22 23 child sexual exploitation activity, as well as if we have
13:54:26 24 identified previously that an image or a video depicts
13:54:29 25 what we believe to be child sexual exploitation, in

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13:54:33 1 accordance with our policies, we'll label those and
13:54:35 2 attempt to surface similar content for us to review and
13:54:40 3 evaluate and, if necessary, report to NCMEC.

13:54:43 4 Q. So as you've described it, there is both a
13:54:49 5 personnel, like actual human beings at Twitter, plus an
13:54:53 6 automated process so it's sometimes it can be blended.

13:54:57 7 Am I correct to understand that?

13:54:59 8 A. Yes. We use technology to assist the manual
13:55:03 9 review process and surfacing of content that might
13:55:10 10 violate our service -- I'm sorry, might violate our terms
13:55:13 11 of service.

13:55:13 12 Q. And just so we're clear, this -- now we're in the
13:55:16 13 subject matter that is specifically in the wheelhouse of
13:55:20 14 your, I guess, unit there at Twitter?

13:55:24 15 A. That's correct.

13:55:26 16 Q. All right. In this particular case, for
13:55:29 17 CyberTip -- the first CyberTip, Government's Exhibit
13:55:31 18 No. 1, CyberTip 61606638, how did that come to Twitter's
13:55:40 19 attention?

13:55:42 20 A. A user submitted a report. Our team promptly
13:55:45 21 reviewed that report, reviewed the account, and then
13:55:49 22 identified the -- what we believed to be examples of
13:55:53 23 violations of our policy that fall into the child sexual
13:55:58 24 exploitation activity category. And we submitted the --
13:56:00 25 we suspended the account, we ensured that we preserved

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13:56:07 1 the account at the time that we suspended it. And then
13:56:10 2 once that preservation was successful, we submitted a
13:56:13 3 CyberTip to NCMEC, detailing the examples of the
13:56:20 4 violation that we identified, as well as a preservation
13:56:24 5 file in the form of a .zip file in the CyberTip.

13:56:29 6 Q. All right. Now, for the user report, just so
13:56:37 7 we're 100 percent on this, that then involves Twitter
13:56:42 8 personnel reviewing stuff that's in the account?

13:56:46 9 A. That's correct.

13:56:47 10 Q. Is it just the image or content that the other
13:56:53 11 user reported, or does Twitter take a broader view of the
13:56:58 12 entire account?

13:57:00 13 A. We review the account comprehensively, so we look
13:57:03 14 at all of the content posted by the account. We also, if
13:57:07 15 necessary, will look at the account interactions, so what
13:57:11 16 other accounts on the platform are they engaged with
13:57:15 17 through a following relationship or other -- you know,
13:57:18 18 maybe it might even include direct messaging activity as
13:57:22 19 well.

13:57:22 20 Q. All right. So how quick is the turnaround on
13:57:27 21 that?

13:57:27 22 A. We aim to respond to every user report within 24
13:57:32 23 hours, so generally it can take anywhere from that -- it
13:57:36 24 might take as long as 24 hours to get to a report, but
13:57:39 25 usually we are very quick and we will resolve those

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13:57:42 1 matters within an hour.

13:57:44 2 Q. All right. On this point, when Twitter does then
13:57:49 3 detect child sexual exploitation material, what does
13:57:54 4 Twitter then do? Walk me through those steps.

13:57:59 5 A. We will -- once we've identified what we believe
13:58:02 6 to be a violation of our policies, as stated on our Help
13:58:06 7 Center page, we will then shut down the account, which
13:58:09 8 means we will -- the technical term used internally is
13:58:14 9 suspend the account, and that also locks anybody from
13:58:17 10 accessing that account or making any adjustments to the
13:58:20 11 content on the account.

13:58:22 12 We then preserve the account, using a technical
13:58:26 13 system. Once that preservation process is complete, we
13:58:31 14 then start the process to submit those -- the information
13:58:36 15 that we've selected to highlight and clarify what we
13:58:43 16 believe to be the violation of our policies are, which
13:58:45 17 also correspond to fields within the CyberTip report, all
13:58:52 18 of that gets sent electronically to NCMEC.

13:58:54 19 Q. And as you have done that, you've talked about
13:58:57 20 suspending, preserving, submitting, does Twitter continue
13:59:00 21 to review the contents of the account to develop, I don't
13:59:05 22 know, detection terms or other image comparison data to
13:59:11 23 improve future detection efforts?

13:59:14 24 MR. BIEBIGHAUSER: Objection. Relevance.

13:59:16 25 THE COURT: Overruled.

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13:59:19 1 A. We would have reviewed that and identified those
13:59:22 2 kinds of indicators or things we believe might improve
13:59:26 3 our detection capabilities in the process of us reviewing
13:59:29 4 the account for violations.

13:59:31 5 BY MR. HART:

13:59:31 6 Q. All right. So this is sort of a learn as you go
13:59:34 7 augmenting your own?

13:59:35 8 A. That's right.

13:59:39 9 Q. Okay. And just so we're clear, all of this is
13:59:43 10 happening on Twitter's servers because your servers are
13:59:47 11 where the contents are stored?

13:59:49 12 A. That's correct.

13:59:52 13 Q. And as far as the CyberTip goes -- this may sound
14:00:05 14 like a silly question -- but who chooses what Twitter
14:00:08 15 submits as a CyberTip?

14:00:12 16 A. So the person who's submitting the CyberTips,
14:00:15 17 which would be a member of my team, would be selecting
14:00:20 18 text. It could be from the account profile. It could be
14:00:23 19 from a tweet. It could be from a direct message. These
14:00:27 20 are the different categories of user-generated content
14:00:29 21 areas where they can input their own content. That might
14:00:33 22 include images or videos uploaded by the user to their
14:00:38 23 Twitter account.

14:00:38 24 And then we also -- our system will bundle that
14:00:42 25 together and fill out the fields using a technical

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14:00:46 1 process, and that also includes including the files. So
14:00:50 2 if it's an image or a video, along with that zipped
14:00:54 3 preservation file which is the preservation that we
14:00:57 4 created before we created a submission process.

14:00:59 5 Q. And you indicated these are -- the ones that are
14:01:02 6 selected are examples of what you've seen in the account?

14:01:07 7 A. Yeah. The intent is for it to be a comprehensive
14:01:12 8 account of the violation that we identified on our
14:01:17 9 servers.

14:01:17 10 Q. All right. Is there any law enforcement officer
14:01:22 11 involvement in the determination of what Twitter decides
14:01:25 12 to submit?

14:01:27 13 A. No.

14:01:28 14 Q. Can a user, not -- well, can a reporting user tell
14:01:33 15 you "You need to submit this thing," and do they have a
14:01:36 16 decision in what is submitted?

14:01:38 17 A. No.

14:01:39 18 Q. Can the user of the account tell you what you
14:01:42 19 submit?

14:01:43 20 A. No.

14:01:46 21 Q. Does NCMEC even tell you what you can or should
14:01:49 22 submit?

14:01:51 23 A. No.

14:01:54 24 Q. For both of these CyberTips, we have image files
14:01:59 25 or video files, and then there's also a .zip file. Why

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14:02:04 1 does Twitter submit a .zip file as part of its CyberTip?

14:02:09 2 MR. BIEBIGHAUSER: Objection. Relevance.

14:02:10 3 THE COURT: Overruled.

14:02:13 4 A. We include that at the time because of at the time

14:02:16 5 that we are making that assessment that we are reporting

14:02:19 6 this matter to NCMEC, we have halted all business

14:02:24 7 relationships with the user, the person using that

14:02:26 8 account. We believe that providing a comprehensive

14:02:31 9 snapshot of the -- not only the account, the instances of

14:02:35 10 child sexual exploitation activity that we assessed, as

14:02:38 11 well as the entirety of the contents of that account,

14:02:42 12 might be helpful for further investigation into the

14:02:45 13 matter that we're reporting in the CyberTip.

14:02:47 14 BY MR. HART:

14:02:48 15 Q. Is that .zip file accessible to the user of the

14:02:52 16 account?

14:02:53 17 A. No, it's not.

14:02:54 18 Q. What happens to that, I guess, file after 90 days?

14:03:00 19 A. It is purged from our servers, so it's no longer

14:03:03 20 accessible by anyone.

14:03:04 21 Q. And just to be clear, the purging process is -- is

14:03:12 22 that specific to child sexual exploitation material, or

14:03:15 23 do you do that on any account that you suspend?

14:03:19 24 A. It's specific to our processes related to accounts

14:03:23 25 we are reporting to NCMEC in relation to child sexual

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14:03:26 1 **exploitation violations of our policy.**

14:03:28 2 Q. So when you find child sexual exploitation, am I

14:03:32 3 correct to understand you take the position or, I guess,

14:03:35 4 do the action of you box up that stuff, you hand it off,

14:03:38 5 and after 90 days you get it off of your servers?

14:03:43 6 A. **That's correct.**

14:03:44 7 Q. Why -- I guess why does that Twitter take that

14:03:47 8 approach?

14:03:48 9 MR. BIEBIGHAUSER: Objection. Relevance.

14:03:49 10 THE COURT: Overruled.

14:03:53 11 A. **We hold our role in that, whenever we identify**

14:03:57 12 **this type of instance or activity, as well as the role of**

14:04:02 13 **submitting the CyberTip, very seriously. We believe that**

14:04:07 14 **providing -- and because of the fact that we've really**

14:04:10 15 **ceased all business transactions with that individual, we**

14:04:13 16 **would like to provide that comprehensive account at the**

14:04:17 17 **time we submit that CyberTip.**

14:04:20 18 BY MR. HART:

14:04:20 19 Q. As far as that .zip file goes, does it include

14:04:28 20 records that Twitter maintains such as IP logs or the

14:04:32 21 subscriber information, along with the direct messages,

14:04:37 22 tweet, public tweets, and things that the user has

14:04:40 23 created?

14:04:42 24 A. **It includes everything that that -- every activity**

14:04:47 25 **that that account engaged in during its time using the**

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14:04:51 1 service, and that includes identifiers we collect to
14:04:55 2 facilitate that platform use.

14:04:58 3 Q. All right.

14:04:59 4 A. Such as IP addresses, et cetera.

14:05:01 5 Q. Right. So I'm sort of thinking in terms of if I
14:05:05 6 were to wall this off, like subscriber information versus
14:05:07 7 con at the point, this .zip file contains all of that?

14:05:10 8 A. That's correct.

14:05:11 9 Q. Would it be fair to say that the .zip file
14:05:15 10 presents that information in a different form or format
14:05:18 11 as what the user would see it if they interfaced with the
14:05:22 12 account?

14:05:24 13 A. The .zip file is a raw -- it's a collection of the
14:05:27 14 raw information.

14:05:29 15 Q. So does it look different than what the user --

14:05:32 16 A. Yes, it does.

14:05:34 17 Q. Do you actually provide instructions for law
14:05:37 18 enforcement to figure out how to marry up that
14:05:39 19 information as part of your CyberTip?

14:05:42 20 A. Yeah, that's correct. If you noticed in Exhibit 1
14:05:45 21 and 2, there are -- there's a Company Information
14:05:50 22 section. And we detail how to cross-reference the
14:05:53 23 information that's enclosed in that .zip file.

14:05:58 24 Q. Now, I'm going to get back to the first CyberTip,
14:06:06 25 CyberTip No. 1, and I'm going to share my screen. This

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14:06:20 1 is Government's Exhibit No. 1. Are you seeing that,

14:06:23 2 Mr. Anderson?

14:06:24 3 **A. Yes, I am.**

14:06:25 4 Q. I think you answered this earlier that right

14:06:28 5 here -- well, that's when you submitted it. When is it

14:06:32 6 that the account is terminated?

14:06:36 7 A. It would have been moments -- it can vary based on

14:06:42 8 the size of the actual files involved in the submission

14:06:45 9 process, but it's usually very soon before the submission

14:06:50 10 is transmitted to NCMEC.

14:06:52 11 Q. All right. It's -- and when you say "very soon,"

14:06:54 12 that could be within 24 hours?

14:06:56 13 A. That's correct.

14:06:59 14 Q. So maybe December 22nd, but possibly as late as

14:07:03 15 December 23rd. But, in any event, before the CyberTip is

14:07:08 16 actually submitted, the account has been terminated?

14:07:11 17 A. That's correct.

14:07:14 18 Q. And is that -- with the submission here, do we

14:07:23 19 actually see some IP logs that Twitter then includes as

14:07:31 20 part of its, I guess, just general report here on page --

14:07:36 21 it's 5 of the document but it's page 3 of the CyberTip

14:07:40 22 itself.

14:07:41 23 A. That's correct.

14:07:42 24 Q. That's what we're seeing right here?

14:07:45 25 A. Yes.

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14:07:55 1 Q. And as we were to go through this, fair to say you
14:07:58 2 guys -- I think you mention this -- but you will actually
14:08:01 3 identify whether the reporting ESP viewed the entire
14:08:05 4 contents of the uploaded file and mark that Yes?
14:08:10 5 A. That's correct.
14:08:11 6 Q. And in this particular case for this particular
14:08:15 7 CyberTip, that would mean a Twitter staff member actually
14:08:20 8 looked at the thing?
14:08:23 9 A. In every case of every CyberTip that Twitter
14:08:26 10 submits, the files where that Yes is indicated means that
14:08:31 11 our person who submitted the CyberTip, the employee,
14:08:35 12 reviewed the files in their entirety before selecting
14:08:38 13 them to be included.
14:08:41 14 Q. Now, if you -- if we went to the sort of automated
14:08:45 15 process of, I guess, image comparison, would it be then a
14:08:50 16 different notation here?
14:08:52 17 A. No. We -- it's still a manual review.
14:08:56 18 Q. Okay.
14:08:56 19 A. We might leverage automated processes to assist
14:09:00 20 us, but it's all conducted manually by human beings,
14:09:04 21 employees of Twitter, employees employed -- sorry,
14:09:07 22 employees of Twitter. Yeah, that's what I said.
14:09:11 23 Q. Okay. All right, let's -- I'm going to stop
14:09:17 24 sharing this. Thank you for indulging my questions about
14:09:21 25 your process.

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14:09:23 1 I'm going to shift gears to talk about
14:09:26 2 Government's Exhibit No. -- well, the second CyberTip,
14:09:31 3 which is reflected in Government's Exhibit No. 2. You
14:09:35 4 need to have that pulled up for your benefit. It's
14:09:38 5 CyberTipline report 71133752. Accurate to say this
14:09:46 6 relates to the survnglife8 account?

14:09:49 7 A. That's correct.

14:09:50 8 Q. And for this CyberTip, how did this account come
14:09:55 9 to -- first come to Twitter's attention?

14:09:59 10 A. The account in question was first -- it first came
14:10:03 11 to Twitter's attention due to a user report related to a
14:10:10 12 policy area not related to child sexual exploitation.
14:10:15 13 And then it was prompt -- it was escalated to our team to
14:10:18 14 review it.

14:10:19 15 After there was a preservation request submitted
14:10:24 16 to Twitter by, I believe it was, the Minnesota Internet
14:10:33 17 Crimes Against Children task force, at that time our team
14:10:35 18 who handles law enforcement requests escalated it to our
14:10:38 19 attention to review it because of the context that it was
14:10:42 20 submitted -- the preservation request came in from an
14:10:46 21 Internet Crimes Against Children task force.

14:10:47 22 Our team then reviewed the account. The account
14:10:52 23 was -- already had been suspended due to violations of
14:10:56 24 that user report. And the suspension was for content
14:11:00 25 associated with nonconsensual nudity at that time we

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14:11:06 1 assessed the content on the account, and we identified
14:11:10 2 what we believed to be child sexual exploitation activity
14:11:12 3 and so we then submitted a CyberTip as a result of that
14:11:16 4 review.

14:11:16 5 Q. All right. There was a lot going on there, but if
14:11:20 6 I understood you, it is first a user report from the
14:11:27 7 public that gets the account suspended?

14:11:29 8 A. That's correct.

14:11:30 9 Q. Did -- in the .zip file that Twitter subsequently
14:11:34 10 provides, do you actually include a text file that shows
14:11:38 11 when that was, the account was actually submitted the --
14:11:41 12 or suspended the first time?

14:11:43 13 A. That's correct.

14:11:44 14 Q. And is that what's reflected in Government's
14:11:48 15 Exhibit No. 13?

14:11:49 16 A. Yes, it is.

14:11:53 17 Q. All right. I'm going to share that screen with
14:11:55 18 you, share my screen with you. And is this the -- I
14:12:01 19 mean, when you talk about "raw data," is this sort of the
14:12:04 20 text file that shows sort of, I guess, how Twitter
14:12:10 21 identifies when the, I guess, the times of suspension in
14:12:16 22 this case?

14:12:16 23 A. Yes, that's correct.

14:12:20 24 Q. And where do we see the first suspension?

14:12:23 25 A. The first suspension would be the one listed at

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14:12:26 1 the top, which is stated with a time stamp, which would
14:12:30 2 be February 27th, 2020.

14:12:33 3 Q. Is that what you're highlighting right here?

14:12:35 4 A. That's correct.

14:12:38 5 Q. Now, because this was not child sexual
14:12:43 6 exploitation, did this get on the track of, I guess,
14:12:48 7 deletion and purging?

14:12:51 8 A. No, it did not.

14:12:52 9 Q. And why is that?

14:12:55 10 A. It had not at the time been flagged for my team to
14:13:00 11 review it, and at the time it was not assessed to be
14:13:02 12 violating policies pertaining to child sexual
14:13:06 13 exploitation, under which we have those distinct
14:13:08 14 processes set up for -- to make sure that we properly
14:13:12 15 dispose of content associated with child sexual
14:13:15 16 exploitation activity. So at the time, come that
14:13:18 17 suspension in February 27th, 2020, it was not assessed to
14:13:23 18 be violating that policy.

14:13:26 19 Q. Could a user then appeal that suspension and say,
14:13:28 20 Hey, I'm sorry, but reinstate my account" or something
14:13:31 21 like that?

14:13:32 22 A. Users are allowed to appeal any account
14:13:36 23 suspension, including account suspensions for child
14:13:39 24 sexual exploitation. We did not receive any appeals
14:13:42 25 associated with this account.

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14:13:43 1 Q. For that matter, did you receive any appeals of
14:13:45 2 the suspensions for the mikeyfromtumblr account?
14:13:49 3 A. We did not.
14:13:51 4 Q. All right. So let's -- you talked about the first
14:13:55 5 date here. The second date, is that what --
14:13:58 6 THE COURT: Mr. Hart, what if we're going to
14:14:00 7 testify from this document I think it should be admitted.
14:14:02 8 MR. HART: Oh, I'm sorry, Your Honor. I would
14:14:04 9 move to admit Government's Exhibit No. 13.
14:14:07 10 MR. BIEBIGHAUSER: No objection.
14:14:07 11 THE COURT: 13 will be admitted.
14:14:12 12 BY MR. HART:
14:14:13 13 Q. With regard to the second thing that you talked
14:14:16 14 about, there was a preservation request. Where did that
14:14:20 15 come from?
14:14:21 16 A. I believe it came from the Minnesota Internet
14:14:27 17 Crimes Against Children task force.
14:14:27 18 Q. All right. Is that referenced in the CyberTip
14:14:29 19 that's in Government's No. 2?
14:14:31 20 A. Yes. We do -- at the time that we submit the
14:14:35 21 CyberTip, we include, in the Additional Information
14:14:39 22 section of the report, that we -- because of that
14:14:43 23 inquiry, we disassociated the contact information with
14:14:47 24 that inquiry and summarized the point of contact in the
14:14:51 25 Additional Information section in case it's relevant.

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14:21:01 1 Q. In your -- from your experience in the area, is
14:21:05 2 this approach that you're talking about, which to say is
14:21:11 3 to review the account to sort of augment your
14:21:14 4 understanding of child sexual exploitation images or
14:21:17 5 terms, is that at all unusual among providers like
14:21:25 6 Twitter?

14:21:25 7 MR. BIEBIGHAUSER: Objection. Relevance.

14:21:29 8 THE COURT: Well, this is a hearing to the bench.
14:21:32 9 I can make relevant determinations. I'm going to let him
14:21:37 10 answer, for what it's worth.

14:21:39 11 A. **I believe it's actually common practice and**
14:21:42 12 **believed to be an effective measure to aggressively**
14:21:46 13 **combat the issue of child sexual exploitation.**

14:21:57 14 BY MR. HART:

14:22:02 15 Q. At this point fair to say the account records, I
14:22:07 16 guess the records for survnglife8 and mikeyfromtumbll,
14:22:12 17 would it be accurate under your processes both of those
14:22:16 18 accounts no longer exist on Twitter's servers?

14:22:21 19 A. **That's correct.**

14:22:23 20 Q. And is Twitter's, I guess, the business records
14:22:28 21 side as well as content, is that's what is now contained
14:22:32 22 in the .zip file that was submitted with the CyberTips?

14:22:36 23 A. **That's correct.**

14:22:37 24 Q. From your experience in the field and your
14:22:40 25 experience there at Twitter, are the records that you

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14:22:43 1 submitted maintained just as you submitted them?

14:22:47 2 **A. Yes.**

14:22:51 3 Q. And I think you covered this, but for both of
14:22:55 4 these accounts were the accounts accessible to the user
14:23:00 5 after Twitter suspended and then later terminated the
14:23:03 6 account?

14:23:05 7 **A. No.**

14:23:06 8 Q. And I know I said "suspended" and "terminated."
14:23:10 9 Are those -- I think you said those are basically the
14:23:12 10 same thing?

14:23:14 11 **A. We use those terms interchangeably.**

14:23:17 12 Q. Okay. Okay.

14:23:29 13 MR. HART: Mr. Anderson, I don't have -- I'm going
14:23:31 14 to stop sharing my screen. I'm sorry. I don't have
14:23:34 15 additional questions for you. I'm going to tender you to
14:23:38 16 defense counsel for their examination.

14:23:41 17 THE COURT: Actually, that's my call.

14:23:43 18 MR. HART: I'm sorry.

14:23:43 19 THE COURT: And what I'm going to do is we're
14:23:45 20 going to take -- we've been here an hour and a half.
14:23:47 21 We're going to take a ten-minute break and then we'll
14:23:50 22 come back and do cross-examination by Mr. Biebighauser.
14:23:52 23 Let's come back, well, it will be ten minutes, which is
14:23:57 24 on our clocks 2:35 and whatever ten minutes is there. So
14:24:02 25 we're in recess.

14:37:01 1 BY MR. BIEBIGHAUSER:

14:37:09 2 Q. Mr. Anderson, thank you for indulging there a bit
14:37:13 3 of setup. My name is Mitch Biebighauser. I'm an
14:37:17 4 attorney for Mr. Sporn. I also have the opportunity here
14:37:22 5 from the Court to ask you a few questions about the
14:37:24 6 issues we have today. And I'd like to start by taking a
14:37:28 7 step back and defining some terms from some things that
14:37:31 8 you said earlier, just to put them --

14:37:32 9 A. Okay.

14:37:33 10 Q. -- I think, in their sort of layperson's
14:37:35 11 understanding or how we talk about them at the user
14:37:38 12 level.

14:37:39 13 You talked about how individuals can create an
14:37:42 14 account and how those accounts are set up, and then you
14:37:45 15 sort of veered into some of the functionality that
14:37:47 16 Twitter provides. I want to talk about two of those.
14:37:51 17 one is the ability to tweet or the function of tweeting
14:37:54 18 on the platform, and also the function of sending a
14:37:58 19 direct message on the platform. And since my questions
14:38:02 20 start for you, when I'm talking about a tweet, do you
14:38:04 21 know what I'm talking about?

14:38:06 22 A. Yes, I do.

14:38:06 23 Q. Okay. What is that?

14:38:08 24 A. It's the primary function through which a user
14:38:11 25 uses Twitter.

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14:52:57 1 A. **Correct.**

14:52:58 2 Q. Okay. So if there was -- if there's a statement

14:53:01 3 in that report that says the information was not provided

14:53:04 4 by NCMEC, you don't have any additional information to

14:53:07 5 provide either; is that correct?

14:53:13 6 A. I'm sorry, is that a hypothetical question, or is

14:53:16 7 that regarding something that's specifically stated in

14:53:19 8 the CyberTip? Just so I'm clear. 'Cause I understand

14:53:21 9 the details and everything that's included in the

14:53:23 10 CyberTip. I just want to make sure I'm understanding

14:53:26 11 your question properly.

14:53:26 12 Q. Sure. Where the CyberTipline report says -- and

14:53:29 13 I'll try this one more time without pulling up the

14:53:32 14 exhibit. Where the CyberTipline report says was the file

14:53:35 15 reviewed by the submitter, and that says "yes," you can

14:53:39 16 confirm that that was done; is that right?

14:53:41 17 A. Yes, yes.

14:53:41 18 Q. Okay. Where it asks that same question and the

14:53:45 19 response is that the information was not provided by

14:53:50 20 Twitter, by the reporting agency --

14:53:51 21 A. I'm following.

14:53:52 22 Q. -- you can't provide any additional information

14:53:54 23 about that, for -- I mean, you don't know anything more

14:53:56 24 than what the NCMEC report says about that; is that

14:53:59 25 right?

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14:53:59 1 A. What I can tell you is that we provide that
14:54:03 2 response for every CyberTip because that's a preservation
14:54:07 3 file, which includes more information technically than we
14:54:10 4 actually review in a given account review. So there's
14:54:14 5 information that's in the body of the CyberTip that is
14:54:18 6 also included. It's redundant in the preservation file.
14:54:21 7 So some of that, the contents of that .zip file, were
14:54:25 8 reviewed as part of our comprehensive account review.
14:54:27 9 And generally speaking, that includes all tweets a user
14:54:31 10 posts to their timeline, all -- in some cases when we
14:54:35 11 have context either because the user stipulated that they
14:54:38 12 were engaged in DM activity or because we were directly,
14:54:41 13 by a user report, indicated to look in the direct
14:54:46 14 messages, we would also review that material as well.
14:54:49 15 But we for sure reviewed every piece of media, so image
14:54:54 16 or video files, that account posted in tweet or profile
14:55:00 17 imagery form before we submitted a CyberTip.

14:55:02 18 Q. You say "for sure." You did not do that; is that
14:55:05 19 correct?

14:55:05 20 A. I did not do that, but that is what I train every
14:55:08 21 single member of my team to do.

14:55:09 22 Q. Okay. But you don't know which team member that
14:55:12 23 you trained that completed the manual review in this
14:55:15 24 case; is that correct?

14:55:15 25 A. I did not look into that information to have that,

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14:55:18 1 to prepare myself with that information ahead of this.

14:55:20 2 Q. And you did not supervise them as that process was

14:55:22 3 ongoing; is that correct?

14:55:24 4 A. **Correct.**

14:55:24 5 Q. You don't know what files they manually looked at

14:55:27 6 and manually didn't, just because you weren't there; is

14:55:32 7 that right?

14:55:32 8 A. I know for certain that they looked at the ones

14:55:34 9 that they selected for submission -- inclusion in the

14:55:37 10 **CyberTip.**

14:55:37 11 Q. Those are the ones that they highlight and say

14:55:39 12 they looked at; right?

14:55:41 13 A. **That's correct.**

14:55:41 14 Q. As to the others, though, you don't know?

14:55:44 15 A. **Correct, I can't speak to them.**

14:55:45 16 Q. And that's true for both CyberTiplines as it

14:55:49 17 relates to both reports; correct?

14:55:50 18 A. **That's correct.**

14:56:12 19 Q. Mr. Hart asked you about why you create these

14:56:16 20 policies and terms of service. You remember those

14:56:20 21 questions?

14:56:21 22 A. **Yes, I do.**

14:56:22 23 Q. Okay. I wrote down that one of your incentives

14:56:24 24 was to promote a safe experience. Did I hear that right?

14:56:28 25 A. **Yes, that's correct.**

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14:56:29 1 Q. And you said later, I think, that if you don't
14:56:32 2 have these and you didn't promote a safe experience, that
14:56:34 3 Twitter could not exist as a business. Did I hear that
14:56:37 4 right, too?

14:56:39 5 A. Specifically that users would not use Twitter, is
14:56:43 6 our belief.

14:56:43 7 Q. Okay. Right. Users wouldn't use Twitter. Is
14:56:48 8 Twitter a for-profit company?

14:56:50 9 A. Yes, we are.

14:56:51 10 Q. Users interact with the ads that you place on your
14:56:54 11 service?

14:56:55 12 A. That's correct.

14:56:56 13 Q. And when users interact with ads, either by
14:56:59 14 clicking them or viewing them, Twitter generates revenue?

14:57:03 15 A. That's correct.

14:57:04 16 Q. And so promoting the safe experience is one way to
14:57:11 17 keep users on your platform to maintain the business of
14:57:14 18 Twitter; is that right?

14:57:15 19 A. That's right.

14:57:16 20 Q. And when users aren't promoting a safe experience,
14:57:20 21 users can have their accounts terminated; is that
14:57:23 22 correct?

14:57:23 23 A. That's correct.

14:57:24 24 Q. There's a number of reasons that a Twitter user
14:57:28 25 can have their account terminated; is that right?

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14:57:30 1 A. Yes, that's right.

14:57:31 2 Q. Okay. One of them, like we've talked about, is

14:57:34 3 for a violation of terms of service; is that correct?

14:57:36 4 A. Yes.

14:57:36 5 Q. Another is because they are creating a risk of

14:57:39 6 legal exposure for Twitter; is that correct?

14:57:45 7 A. That's beyond my assessment and my job, my role.

14:57:50 8 It's really assessing the policies.

14:57:52 9 Q. Did you say you helped draft the terms of service

14:57:56 10 that were operable at the time that we're dealing with

14:57:59 11 here?

14:58:00 12 A. Not the terms of service specifically as far as

14:58:04 13 that specific exhibit is concerned. I was involved in

14:58:07 14 the actual policy page associated with the Child Sexual

14:58:11 15 Exploitation Policy.

14:58:11 16 Q. Okay. Were you aware of the terms of service when

14:58:14 17 you created those privacy policies?

14:58:17 18 A. Yes.

14:58:17 19 Q. Okay. Are you aware of the contents of those now?

14:58:21 20 A. Yes.

14:58:21 21 Q. Do you have it in front of you, Government's

14:58:24 22 Exhibit 3?

14:58:25 23 A. The -- yeah, I could pull it up.

14:58:27 24 Q. Okay. Scroll down to page 35 and I'll ask you a

14:58:30 25 few questions. I don't think we'll need to bring it up

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15:20:54 1 THE COURT: Are we finished with this witness?

15:20:56 2 MR. HART: I think so, Your Honor, yes.

15:21:00 3 THE COURT: Mr. Anderson, we appreciate your

15:21:02 4 appearance today by Zoom, so thank you so much. You are

15:21:07 5 discharged from any process of the court. You're free to

15:21:10 6 log off. Thank you, sir.

15:21:11 7 THE WITNESS: Thank you.

15:21:15 8 (Witness logged off Zoom.)

15:21:20 9 THE COURT: Mr. Hart, you indicated that we had

15:21:21 10 another witness. Are we ready to call her?

15:21:24 11 MR. HART: Yes, Your Honor. It'll be now Sergeant

15:21:31 12 Stephanie Neal of the Wichita Police Department.

15:21:53 13 THE COURT: Good morning, Sergeant. If you would

15:21:55 14 come forward, my courtroom deputy is going to swear you

15:21:58 15 in, and then you can have a seat over there in the

15:22:00 16 witness box. Thank you for waiting in our lovely hallway

15:22:04 17 all this time.

15:22:05 18 SERGEANT STEPHANIE NEAL,

15:22:05 19 having been first duly sworn to testify the truth, the

15:22:05 20 whole truth, and nothing but the truth, testified as

15:22:17 21 follows:

15:22:18 22 DIRECT EXAMINATION

15:22:18 23 BY MR. HART:

15:22:36 24 Q. Good afternoon. Ma'am, would you please introduce

15:22:38 25 yourself to the -- well, I'm sorry, I've been talking for

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15:22:43 1 a minute. Let me get my words underneath my feet. Would
15:22:46 2 you please state your name for the record.

15:22:47 3 **A. Stephanie Neal.**

15:22:49 4 **Q. And --**

15:22:52 5 **THE COURT:** Ms. Neal, I can already tell you need
15:22:54 6 to talk into the microphone. Can you see if the
15:22:56 7 microphone's even on?

15:22:58 8 **MR. HART:** It looks like it's on.

15:22:59 9 **THE COURT:** All right. Thank you.

15:23:00 10 BY MR. HART:

15:23:00 11 **Q. Can you say that again?**

15:23:01 12 **A. Stephanie Neal.**

15:23:03 13 **Q. And, Ms. Neal, what do you do for a living?**

15:23:05 14 **A. I'm a sergeant with the Wichita Police Department.**

15:23:07 15 **Q. And how long have you been in that role?**

15:23:10 16 **A. Since April of last year.**

15:23:11 17 **Q. Prior to that what were you doing?**

15:23:15 18 **A. I was a detective in ICAC.**

15:23:23 19 **THE COURT:** She can't pull it closer to her
15:23:25 20 because it's fixed. Jo, are you hearing her okay?

15:23:33 21 **THE REPORTER:** Barely.

15:23:33 22 BY MR. HART:

15:23:34 23 **Q. All right, Ms. Neal or Sergeant Neal, you're going**
15:23:36 24 **to have to speak nice and loud.**

15:23:37 25 **A. Okay.**

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15:23:40 1 Q. Prior to becoming a sergeant you were -- and I'm
15:23:44 2 going to have to back off. Before becoming a sergeant,
15:23:47 3 what was your role?
15:23:47 4 A. I was a detective in the ICAC section.
15:23:50 5 Q. And that's the Internet Crimes Against Children --
15:23:53 6 A. Yes.
15:23:53 7 Q. -- Task Force at Wichita Police Department and
15:23:57 8 Sedgwick County Sheriff's Office?
15:23:59 9 A. Yes.
15:23:59 10 Q. How long have you been at the Wichita Police
15:24:03 11 Department altogether?
15:24:04 12 A. Seventeen years.
15:24:05 13 Q. What's your educational background?
15:24:07 14 A. I have a Bachelor in Arts degree from Washburn in
15:24:12 15 Political Science and then a Juris Doctorate from
15:24:14 16 Washburn.
15:24:19 17 Q. Now, you've referenced you're a juris doctor.
15:24:23 18 Have you ever practiced the law out in private practice?
15:24:26 19 A. No.
15:24:26 20 Q. All right. Your experience has been almost
15:24:30 21 exclusively as -- well, has it been exclusively as a law
15:24:34 22 enforcement or police officer?
15:24:35 23 A. Yes.
15:24:35 24 Q. All right. I'm going to shift gears to you and
15:24:39 25 talk to you about the CyberTips in this case or the

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15:24:43 1 investigation in this case. How did you come to be
15:24:45 2 involved in the investigation into Mr. Randy Sporn?

15:24:50 3 A. On February 20th of 2020, I was assigned two
15:24:54 4 CyberTips from Twitter. And then on May 18th of 2020, I
15:24:58 5 was assigned an additional CyberTip from Twitter.

15:25:02 6 Q. Now, when CyberTips get assigned to the detectives
15:25:04 7 there at the ICAC unit, does someone do an initial check
15:25:10 8 for prioritization?

15:25:11 9 A. Yes, Sergeant Swanson does.

15:25:14 10 Q. And what type of cases get the highest level of
15:25:17 11 priority?

15:25:17 12 A. Ones that are called Priority 1. They're a
15:25:20 13 hands-on offense, so they believe -- you know, NCMEC
15:25:24 14 believes that someone is actively taking pictures of a
15:25:27 15 child or abusing a child.

15:25:28 16 Q. All right. And those are -- typically come across
15:25:31 17 as somebody somewhere along the line has flagged this
15:25:35 18 seems to be going on right now?

15:25:37 19 A. Yes.

15:25:38 20 Q. Would it be fair to say that production type of
15:25:42 21 cases where there's child pornography that's being
15:25:45 22 produced also then get escalated?

15:25:48 23 A. Yes.

15:25:49 24 Q. Likewise, when you have a second tip come in that
15:25:55 25 is associated with a prior tip, how does that affect the

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15:25:58 1 sort of prioritization?

15:26:00 2 A. It moves it up, because then you can see that

15:26:04 3 there's additional -- you know, they're making new

15:26:07 4 accounts.

15:26:07 5 Q. All right. Now, in this case you've talked

15:26:14 6 about -- did you talk about two CyberTips or three

15:26:17 7 CyberTips?

15:26:17 8 A. A CyberTip I got assigned to in February and then

15:26:21 9 the one in May.

15:26:22 10 Q. All right. The two that were assigned in

15:26:24 11 February, were those duplicates?

15:26:27 12 A. Yes.

15:26:30 13 Q. And what accounts did those relate to?

15:26:33 14 A. The screen name or user account was

15:26:38 15 mikeyfromtumblr.

15:26:38 16 Q. And is that on Twitter?

15:26:39 17 A. Yes.

15:26:39 18 Q. And then the second, the May -- I'm sorry, I'm

15:26:43 19 going to screw that up, the May assignment, does that

15:26:45 20 relate to a survingleife8 account on Twitter?

15:26:48 21 A. Yes.

15:26:53 22 Q. Now, when you receive the CyberTips just

15:26:57 23 generally -- actually in this case specifically -- what

15:27:00 24 is involved as it relates to your review of the

15:27:06 25 CyberTips.

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15:27:06 1 A. I went through the CyberTips. I look at the
15:27:08 2 pictures and any accompanying documents that are sent
15:27:10 3 with them.

15:27:11 4 Q. Do you pay attention to whether the uploaded
15:27:14 5 images or movies have been identified as either publicly
15:27:17 6 available or already viewed by Twitter?

15:27:19 7 A. Yes.

15:27:19 8 Q. And in this case for both CyberTips, had that
15:27:25 9 happened?

15:27:26 10 A. Yes.

15:27:28 11 Q. In this particular instance there was an included
15:27:35 12 .zip file. Do you recall that?

15:27:36 13 A. Yes.

15:27:36 14 Q. What was contained in the .zip file for each of
15:27:40 15 these?

15:27:42 16 A. There was the tweets, the subscriber information,
15:27:47 17 direct messages, and additional videos and pictures.

15:27:49 18 Q. All right. So you get a combination of -- well,
15:27:52 19 it's basically the user's account, would that be fair?

15:27:55 20 A. Yes.

15:27:58 21 Q. Now, from your experience doing this down at the
15:28:02 22 ICAC, has it been your experience that the providers will
15:28:08 23 frequently terminate the reported accounts prior to
15:28:12 24 submitting the CyberTip report?

15:28:15 25 A. Yes.

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15:28:20 1 Q. And when you looked at these particular CyberTips,
15:28:24 2 did you see anything notable about the registration for
15:28:29 3 the account?

15:28:31 4 A. On the May CyberTip there was a phone number that
15:28:35 5 was included, but also both of the IP addresses --
15:28:42 6 there's IP addresses that were similar in both the
15:28:45 7 mikeyfromtumblr account and the survingleife8 account.

15:28:49 8 Q. All right. So you noticed both of these accounts
15:28:52 9 had been registered from the same IP address?

15:28:54 10 A. Yes.

15:28:55 11 Q. Even though they're registered roughly four months
15:29:00 12 apart, one in August, August 26, and then one later,
15:29:04 13 December --

15:29:05 14 A. 31st.

15:29:05 15 Q. -- 31st. And what does that mean? In your
15:29:13 16 experience as a detective, what did that mean to you?

15:29:15 17 A. That it's the same person creating new accounts.

15:29:18 18 Q. And then you mention the phone number. What was
15:29:21 19 important about the phone number for the second, the May
15:29:25 20 referral?

15:29:26 21 A. I was able to run that phone number through our
15:29:28 22 records system, and it came back to Randy Sporn.

15:29:31 23 Q. And what did you then learn about Randy Sporn?

15:29:36 24 MR. BIEBIGHAUSER: Objection. Relevance.

15:29:39 25 THE COURT: Is it relevant?

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15:29:43 1 MR. HART: Your Honor, I think only insofar as
15:29:45 2 what information the officer had later for the search
15:29:48 3 warrants, but that's included in the search warrants.
15:29:50 4 THE COURT: Well, I'm going to let her answer. If
15:29:52 5 it's not relevant, I'll discard it.
15:29:55 6 A. **I learned that he was a registered sex offender**
15:29:57 7 **and had two prior convictions for hands-on offenses.**
15:30:01 8 BY MR. HART:
15:30:02 9 Q. All right. As it relates to those CyberTips --
15:30:10 10 well, fair to say your observations -- we haven't covered
15:30:13 11 all the observations that you made about the individual
15:30:15 12 accounts based off the CyberTips; would that be fair?
15:30:18 13 A. **Yes.**
15:30:19 14 Q. Those observations are contained in later search
15:30:22 15 warrant affidavits; would that be right?
15:30:24 16 A. **Yes.**
15:30:24 17 Q. Okay. And just so we're 100 percent, as far as
15:30:36 18 what you found in your review of the .zip files, did
15:30:40 19 those include the direct messages and tweets and things
15:30:42 20 like that?
15:30:44 21 A. **Yes.**
15:30:44 22 Q. And were you -- did you marry those up with the
15:30:49 23 media files that were also provided?
15:30:51 24 A. **Yes, I did.**
15:30:53 25 Q. And that sort of, I guess, marriage of those

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15:45:03 1 Q. And he requested y'all come get that?

15:45:07 2 A. Yes.

15:45:07 3 Q. And fair to say that has no evidentiary value?

15:45:10 4 A. Correct.

15:45:11 5 Q. Not able to be powered up or anything like that?

15:45:14 6 A. Detective Asmussen said that he was unable to get

15:45:18 7 any extraction from it.

15:45:29 8 MR. HART: Thank you, Detective Neal. I don't

15:45:31 9 have any further questions for you. Sit tight in case

15:45:36 10 Mr. Biebighauser does.

15:45:36 11 THE COURT: Cross-examination, Mr. Biebighauser?

15:45:39 12 CROSS-EXAMINATION

15:45:39 13 BY MR. BIEBIGHAUSER:

15:45:55 14 Q. Sergeant?

15:45:56 15 A. Yes.

15:45:56 16 Q. Sergeant. Sergeant, I want to go all the way back

15:46:00 17 to the beginning where your involvement with this

15:46:03 18 investigation began. Did it start when you received a

15:46:07 19 report from the National Center For Missing and Exploited

15:46:11 20 Children? Is that where you began your investigation?

15:46:13 21 A. Yes.

15:46:22 22 Q. Did you review that report after you received it?

15:46:26 23 A. Yes.

15:46:27 24 Q. Do you have a copy of it in front of you --

15:46:29 25 A. No.

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15:46:29 1 Q. -- the NCMEC reports?

15:46:32 2 A. **No, I don't.**

15:46:32 3 Q. If you need them, let me know.

15:46:34 4 A. **Yeah.**

15:46:34 5 Q. 'Cause I have some specific questions for you.

15:46:36 6 A. **Okay.**

15:46:42 7 Q. When you reviewed them, I think on direct

15:46:44 8 examination you said you paid attention to files that had

15:46:47 9 and had not been previously reviewed by the reporting

15:46:52 10 ESP. Is that something you do as a part of your review?

15:46:54 11 A. **Yes.**

15:46:55 12 Q. Did you do that in this case?

15:46:57 13 A. **Yes.**

15:46:57 14 Q. Do you remember that in the first pair of

15:47:02 15 duplicate NCMEC reports that that was related to account

15:47:06 16 mikeyfromtumblr? Does that ring a bell?

15:47:10 17 A. **Yes.**

15:47:10 18 Q. And there were some files that were media files,

15:47:13 19 like .MP4 or .JPEG, either video or image files?

15:47:19 20 A. **I would have to look at them to see.**

15:47:20 21 Q. Sure.

15:47:25 22 MR. BIEBIGHAUSER: May I approach?

15:47:25 23 THE COURT: You may. And, again, you don't need

15:47:27 24 to ask, but thank you.

15:47:28 25 MR. BIEBIGHAUSER: Okay. Thank you.

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15:47:30 1 BY MR. BIEBIGHAUSER:

15:47:30 2 Q. I'll approach with Government's Exhibit 1. Just

15:47:39 3 thumb through it and let me know if you recognize that.

15:47:43 4 A. **(The witness complies.) Yes.**

15:47:58 5 Q. I asked you about the NCMEC report for the account

15:48:03 6 mikeyfromtumblr. Is that the report we were talking

15:48:06 7 about?

15:48:06 8 A. **Yes.**

15:48:07 9 Q. Do you see in that report, starting -- the page

15:48:13 10 numbers are on the top right-hand corner -- starting at

15:48:16 11 page 4 there is a list of uploaded file information?

15:48:20 12 A. **Yes.**

15:48:22 13 Q. In the second what I'll call banner and then

15:48:25 14 subsequent, there are listed .JPEG and .MP4 files. Do

15:48:33 15 you see that?

15:48:33 16 A. **Yes.**

15:48:34 17 Q. Those are images and videos?

15:48:35 18 A. **Yes.**

15:48:35 19 Q. In each of those banners are the information about

15:48:39 20 those files. There's a question that asks about did the

15:48:42 21 reporting ESP view the entire contents of the uploaded

15:48:45 22 file. Do you see that question?

15:48:47 23 A. **Yes.**

15:48:47 24 Q. And for each of the files, is the answer "yes"?

15:48:50 25 A. **Yes.**

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15:48:51 1 Q. At the beginning of that list, however, do you see
15:48:54 2 a different file with a .zip ending?

15:48:59 3 A. Yes.

15:48:59 4 Q. And it asks the same question: "Did reporting ESP
15:49:02 5 view entire contents of uploaded file?" Do you see that?

15:49:05 6 A. Yes.

15:49:06 7 Q. And the information, it says, "Information not
15:49:08 8 provided by the company." Do you see that, too?

15:49:10 9 A. Yes.

15:49:10 10 Q. I'm going through this step by step because I want
15:49:13 11 to reflect back on your initial review. Is this what you
15:49:16 12 were talking about when you said on direct examination "I
15:49:17 13 looked to see if the reporting ESP had viewed the
15:49:20 14 information"?

15:49:21 15 A. Yes.

15:49:24 16 Q. I'm going to ask you one big question about -- and
15:49:27 17 I'll -- may I -- I'll approach with what's been marked as
15:49:30 18 Government's Exhibit No. 2. That should be the same -- a
15:49:36 19 NCMEC report for survnglife8. You let me know if that's
15:49:39 20 what that is.

15:49:43 21 A. Yes.

15:49:44 22 Q. All right. And that included one media file.
15:49:56 23 What file type was that?

15:49:58 24 A. A JPEG.

15:49:59 25 Q. Okay. And then in addition it also included a

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15:50:04 1 .zip file; right?

15:50:05 2 **A. Yes.**

15:50:07 3 Q. Maybe we can get all this out with one question.

15:50:10 4 Does it go through the same questions, same answers, and

15:50:12 5 are they the same for the difference between the media

15:50:14 6 files and the .zip files as it relates to this account?

15:50:19 7 **A. Yes.**

15:50:22 8 Q. On direct examination I think you said that in

15:50:24 9 your review of the .zip files you found several

15:50:30 10 additional file types in there: videos, pictures, text

15:50:34 11 files, messages shared between one user and another user.

15:50:38 12 Is that everything that was in the .zip file?

15:50:40 13 **A. Yes.**

15:50:41 14 Q. Before you reviewed all of that information, had

15:50:44 15 you sought a search warrant to view that information?

15:50:46 16 **A. No.**

15:50:50 17 Q. After you searched it, I want to talk about what

15:50:53 18 you found in those files. And I ask you this as one

15:50:57 19 global question but let's break it down. You found image

15:51:00 20 files; right?

15:51:00 21 **A. Yes.**

15:51:00 22 Q. In both accounts?

15:51:02 23 **A. Yes.**

15:51:02 24 Q. And let's just -- let me ask you all my questions

15:51:05 25 about both accounts now, so we're clear. You found image

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15:51:07 1 files and video files?

15:51:24 2 A. I know there are video files in the mikeytumblr

15:51:30 3 account.

15:51:32 4 Q. Go ahead and review 'em and let me know.

15:51:42 5 A. And then in the surviving8 [sic], I just say that

15:51:47 6 there are images but I don't state if they're pictures or

15:51:49 7 videos.

15:51:49 8 Q. You say you "don't state." What do you mean by

15:51:51 9 that?

15:51:51 10 A. Well, 'cause when I went through them I counted as

15:51:55 11 to how many images that there were.

15:51:56 12 Q. Okay. So is that your testimony today, or are you

15:51:59 13 just relying on what you wrote at some other time?

15:52:01 14 A. I'm relying on my report that I wrote at the time.

15:52:04 15 Q. Okay. So do you know now whether there were video

15:52:07 16 files in the survingleife8 account?

15:52:09 17 A. Not at this time, no.

15:52:10 18 Q. There were image files however; right?

15:52:12 19 A. Yes.

15:52:13 20 Q. And in both of those accounts was there a folder

15:52:16 21 called Direct Messages?

15:52:17 22 A. Yes.

15:52:17 23 Q. When you were looking at the direct messages, what

15:52:21 24 did you understand direct messages to be?

15:52:24 25 A. That they're not on -- that not everybody can see

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15:52:30 1 them, just the two people who are exchanging those
15:52:33 2 messages, or group.

15:52:33 3 Q. I'm going to dumb this way down just to lay a
15:52:37 4 foundation. Were they direct messages from the Twitter
15:52:40 5 website service?

15:52:41 6 A. They were direct messages from one account to
15:52:43 7 another account.

15:52:44 8 Q. Okay. And one of those accounts did you later
15:52:46 9 learn to belong to Mr. Sporn?

15:52:49 10 A. Yes.

15:52:51 11 Q. The direct messages, did they contain the images
15:52:55 12 and the videos that you were just mentioning?

15:52:57 13 A. Yes, on the ~~survinglife8~~ account.

15:52:59 14 Q. Did they also include text messages?

15:53:02 15 A. Well, they're not -- I mean, I don't know if
15:53:05 16 they're text messages or not, but they're messages.

15:53:07 17 Q. Okay. I don't mean text messages like on a phone,

15:53:09 18 A. Yeah.

15:53:09 19 Q. I just mean messages between two users.

15:53:13 20 A. Yes.

15:53:13 21 Q. Made of text.

15:53:14 22 A. Yes.

15:53:14 23 Q. Okay. And those messages going back and forth,
15:53:17 24 you believe, were between Mr. Sporn and whoever his
15:53:19 25 intended recipient was?

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15:53:21 1 A. Yes.

15:53:30 2 Q. Did the .zip files also include other information

15:53:35 3 that was relevant to the creation of Mr. Sporn's

15:53:38 4 accounts?

15:53:40 5 A. Yes.

15:53:40 6 Q. Okay. It would have included things like his

15:53:43 7 email address, his name, his telephone number, that sort

15:53:45 8 of thing?

15:53:46 9 A. Yes.

15:53:47 10 Q. At any time you were reviewing the contents of

15:53:50 11 those .zip files, did you stop and obtain a search

15:53:54 12 warrant to continue looking, or did you complete your

15:53:56 13 review of the entire .zip files before obtaining a search

15:53:59 14 warrant?

15:53:59 15 A. Well, actually, in the survnglife8 account, if I

15:54:03 16 can go back to your previous question --

15:54:05 17 Q. Sure, please.

15:54:05 18 A. -- it wasn't in the .zip file that I got his phone

15:54:09 19 number and the registration date. It was in the original

15:54:15 20 CyberTip that NCMEC sent.

15:54:16 21 Q. Okay. You saw it in the CyberTip, but was it also

15:54:19 22 included in the .zip file?

15:54:21 23 A. Yes.

15:54:23 24 Q. Okay. We'll just confine this then. So before

15:54:26 25 looking at the direct messages, including the video and

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15:54:29 1 the images and the text in those messages, did you ever
15:54:31 2 stop your review to obtain a search warrant?

15:54:33 3 **A. No.**

15:54:33 4 Q. You looked at all the files that you wanted to
15:54:36 5 before you ever obtained a search warrant to look at that
15:54:38 6 information?

15:54:38 7 A. **I never obtained a search warrant for these**
15:54:41 8 **accounts.**

15:54:43 9 Q. By "these accounts," did you understand them,
15:54:45 10 either then or later, to belong to Mr. Sporn?

15:54:48 11 A. **Yes.**

15:54:51 12 Q. I want to back out onto a different subject. You
15:54:55 13 said that, on direct examination, you were talking about
15:54:58 14 the search warrants in general that you obtained later.
15:55:01 15 If they had been denied, you mentioned going to HSI
15:55:05 16 Ferreira. Am I saying that name right?

15:55:07 17 A. **Yes.**

15:55:08 18 Q. You would have asked him for assistance; is that
15:55:11 19 what I understood?

15:55:12 20 A. **Yes.**

15:55:16 21 Q. In that event would it have been up to HSI
15:55:18 22 Ferreira to say "no"?

15:55:20 23 A. **He could have.**

15:55:21 24 Q. You didn't know because you didn't ask him; right?

15:55:24 25 A. **I didn't need to.**

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C E R T I F I C A T E

I, Johanna L. Wilkinson, United States Court Reporter
in and for the District of Kansas, do hereby certify:

That the above and foregoing proceedings were taken
by me at said time and place in stenotype;

That thereafter said proceedings were transcribed
under my direction and supervision by means of computer-aided
transcription, and that the above and foregoing constitutes a
full, true and correct transcript of said proceedings;

That I am a disinterested person to the said
action.

IN WITNESS WHEREOF, I hereto set my hand on this the
1st day of September, 2023.

s/ Johanna L. Wilkinson
Johanna L. Wilkinson, CSR, CRR, RMR
United States Court Reporter

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